Federalism and Natural Resource Management: A Comparative Study of Intergovernmental Conflict over Oil and Gas in Canada and Nigeria

By

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A thesis submitted in partial fulfillment of the requirements for the degree of

Doctor of Philosophy

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Abstract

How does federalism affect oil conflict between governments in federations? Systematic theory-driven answers to this question are scarce, both in the comparative federalism and resource curse literatures. My dissertation bridges this research gap by comparing intergovernmental conflicts over oil in Canada and Nigeria, two distinct varieties of multinational federations in which competitive and conflicting territorial claims over oil are deep-seated. Employing a historical institutionalist framework, it demonstrates how conflict over oil in these federations has been primarily shaped by federal institutional rules, specifically formal institutional-constitutional design allocating competency over oil, and the informal institutions relating to the normative ideas about federalism and federal community. The dissertation underscores how federal institutional rules interact with the configuration of economic, social, and political structures in the broader polity. The dissertation shows that, ultimately, conflicts over oil were generated by the interaction of this constellation of institutions operating within specific temporal dynamics, including federal origin and formative moment institutional choices, sequence/timing of federal rule creation vis-à-vis the development of the oil industry, contingency events, critical junctures, and path dependent trajectories. I examine two domains of horizontal and vertical intergovernmental conflict: oil-related intergovernmental fiscal transfers, and 'ownership,' jurisdictional-legislative, and revenue rights over offshore oil. A key theoretical contribution of this dissertation lies in its explanation of oil conflict as processes that evolve over time rather than the usual way conflict is viewed as single events in time. To this end, the dissertation develops the novel frame of conflict dynamics, three dimensions along which conflict processes in federations may vary, and applies this to the explanation of offshore oil conflict. **These dimensions are the degree of assertiveness of claims made and the degree of concession won by the provinces/states; the degree of conflict intractability or protractedness; and the nature of intergovernmental coordination.**

As a corrective to conventional static notions of conflict as violent or nonviolent outcomes, this dissertation's focus on conflict processes helps to carefully specify the evolution, ebbs and flows, and

continuities/changes of conflict embedded within ostensibly self-reinforcing and self-preserving conflict patterns. Central to the concept of conflict processes is (de)centralization dynamics or federal dynamics: the continuities and changes in federal rule or the authoritative (re)allocation of power over oil itself. Conflict is not only produced from the initial foundational 'compromise' between federal and provincial/state actors allocating competence over oil; the renegotiation of these rules over time, which in essence entails the redistribution of power/resources and rule reinterpretation, also generates distinct patterns of conflict and conflict resolution. Such renegotiations are heightened during critical junctures when institutional rules are remarkably relaxed, such as the Natural Resource Transfer Agreements (1930) and 1970s-80s oil price crises in Canada, and military rule (1966-975), civil war (1967-1970), 1970s-80s oil price crises, and the transition from military to democratic rule in 1999 in Nigeria. Thus, the processes of oil conflict are intricately woven around or bound up with the continuing process of federal (re)balance, which takes place primarily but not exhaustively over federal institutional rules as reflection of federal solidarity and as arena for conflict. By focusing on how federal institutional rules shape conflict, the dissertation underscores the endogenous processes of federal institutional change, reinforcing historical institutionalists' emphasis of the implication of institutions in their own transformation. Conflict processes can provide a guide to an understanding of the operation of federalism and its evolution. The Canadian and Nigerian cases also demonstrate how contestations over oil over time played crucial roles in pushing the federations towards paths that deviated from the broader centralized or decentralized federal institutional designs established at federalization, with the role of oil more crucial in this regard in Nigeria than Canada, given the dependence of the whole federation on this resource. Finally, the dissertation demonstrates that when conflict is viewed as a complex iterative process, and when such a long-term understanding of conflict is applied to different policy fields or subfields of a particular policy field, such as onshore and offshore oil, counterintuitive findings may emerge. For example, though conflict over oil in Nigeria is generally considered more contested than in Canada, my findings on the divergent conflict dynamics between governments over offshore oil suggests that conflict was more intractable in Canada than in Nigeria.

Preface

This thesis is an original work by Eyene Okpanachi. The research project, of which this thesis is a part, received research ethics approval from the University of Alberta Research Ethics Board, Project Title "Federalism and Natural Resource Management: A Comparative Study of Conflict over Oil and Gas in Canada and Nigeria," Study ID: Pro00056660, Date: August 6th, 2015.

Dedication

This project is dedicated to the loving memories of my grandparents, Rev. Joseph Young Okpanachi (MON) and Mrs. Grace Okpanachi (nee Obaje), who nurtured me and first showed me the colors of love. May their souls continue to repose in God's heavenly bliss.

The project is also dedicated to my uncle-in-law, Professor Francis Sulemanu Idachaba (OFR) who, together with my aunt, Dr. Esther Idachaba, played central roles in my education, but who passed on while I was still gathering data for this project. Uncle Francis, who valued scholarship, triggered my interest in academia, demonstrated the virtues of hard work as a scholar, and consistently urged those around him to work hard because "there are no sustainable shortcuts," would have been very proud to see me complete this PhD. May he continue to rest in heavenly glory.

Acknowledgements

Yesterday, it was a dream; today, it is a reality. I thank Almighty God for His steadfast love, and faithfulness that made this possible. I thank Him for His Hope amidst hopelessness. To HIM ALONE be all the glory.

My special gratitude goes to my Supervisor, Dr. Lori Thorlakson, for her support, guidance, patience, and constructive criticism. This thesis, from the initial design to completion, has benefitted immensely from her incisive elucidation and painstaking suggestions for improvement. I have enjoyed working with and learning from her, and I am indebted to her for her careful attention to details, and for pushing me to be innovative and imaginative. Thank you so much, Lori.

I would also like to thank my supervisory committee members, Drs. Ian Urquhart, Temitope Oriola, Mojtaba Mahdavi-Ardekani (candidacy and final exam commitees), Professor Janine Brodie (candidacy exam), and the external examiner, Professor André Lecours, for taking the time to read my work and also for their important corrections, both verbal and written, that have made this thesis a reality. I thank you all for your great enrichment.

This dissertation is the final point of my PhD journey that started with course work and the comprehensive exam. Thanks to my course work teachers: Drs. Janine Brodie, Andy Knight, Ian Urquhart, Malinda Smith, Isabel Altamirano-Jimenez, and Siobhan Byrne. I also thank Andy Knight and Malinda Smith for mentoring me for my comprehensive exams, as well as Greg Anderson and Majtoba Mahdavi who served as arm's length reviewers for my comprehensive exam papers.

I owe huge thanks to the Associate Graduate Coordinator, Prof. Yasmeen Abu-Laban, for all her efforts to secure the earliest date possible for my project defense, and for her administrative support which has helped me not to miss out on an important post-graduation opportunity. Thanks are also due Professor Lois Harder who, as graduate chair, ensured that I retained my admission and scholarship when I was first offered these opportunities in 2009 but could not make it due to visa delay. My appreciation also goes to Caroline Kinyua, Donna Coombs-Montrose, and all other non-academic staff of the Political Science department for sundry administrative assistance.

I would also like to express my appreciation to the University of Alberta Library and the library team (especially at the Rutherford Library) for always making books available for my research. Indeed, I am very fortunate to have carried out my doctoral study at a university with one of the best research libraries in the world.

My utmost gratitude also goes to Cindy Chopoidalo for the wonderful proofreading services and suggested changes that have improved my dissertation.

A PhD builds on previous education. I owe an enormous debt to Professor Eghosa Osaghae, my teacher at the bachelor level, and Professor Rotimi Suberu, my teacher and thesis supervisor for the bachelor's and master's degrees, who stimulated and nurtured my interest on federalism during my studentship at the University of Ibadan. Thank you so much.

Special thanks are due to my family. To my mother and siblings, I say thank you for the patience and prayers, without which this wouldn't have been possible. I thank my aunt, Dr. Esther Idachaba and uncle, Prof. F.S. Idachaba, who made sure that I received the best education possible at high school and at the bachelor's degree level. This doctoral degree has merely built upon the solid educational foundation they have earlier laid for me. My thanks are indeed not enough. My biggest thanks go to my

wife, Esther, and the kids, Ivanna and Jaden, for their love and support, which crucially motivated me to complete this thesis. In the course of this PhD journey, when the challenges of graduate school became frustrating and seemed too great to overcome, Esther and the kids have graciously borne my petulance and provided me reasons to soldier on. I am truly thankful for having them in my life during this period, and this thesis is their accomplishment as much as it is mine.

I would like to thank my friends, Chudi Onwuasoanya, Michael Eshiemokhai, Chukwuma Obutte, and Terhemba Ambe-Uva, Paul Nyibek, and Nathan Andrews for their support and encouragement. Much thanks to up to Chudi for clarifying my thoughts on offshore jargons and a big shout out to Nathan for important research collaborations.

Finally, I make bold to say that my study and this thesis wouldn't have become a reality without the Teaching and Research Assistantship from the Department of Political Science, and the following competitive scholarships and awards:

• Vanier Canada Graduate Scholarship (provided by the Government of Canada and awarded by SSHRC)

• Provost Doctoral Entrance Award (University of Alberta's FGSR)

• President's Doctoral Prize of Distinction (University of Alberta's FGSR)

• Shell Learning Enhancement Fund (Shell Canada/CAPS, University of Alberta)

I thank the sources of the above generous funding for my study, and other scholarships and grants (not mentioned here) which facilitated my participation in conferences and workshops during the course of my PhD. Thank you so much for not only making my study at the U of A a reality, but also a memorable and excite

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CHAPTER 1

STUDY BACKGROUND

1.1. Introduction

A major challenge in multinational federations such as Canada and Nigeria is how best to manage and accommodate various types of diversity, such as ethnocultural differences, uneven distribution of natural resources, and extreme levels of regional inequality. Several scholars have argued that federalist arrangements facilitate successful accommodation of these diversities, and thus help to the conflicts that would otherwise have emerged (Colino and Moreno 2010; Erk 2008; Watts 2008; Amoretti and Bermeo 2004). The theoretical justification for federalism is based on its simultaneous promotion of unions and non-centralization as well as self-rule and shared rule (Elazar 1998; Watts 2008). In other words, federalism "offers the potential to retain the territorial integrity of the state while providing some form of self-governance and autonomy for different groups" (Bakke and Wibbels 2006, 2).

However, the relationship between federalism and diversity management is not settled. Indeed, although, as Bermeo (2002) argues, federations are more effective at preserving peace than unitary states, federalism is neither a magic wand nor an easy-to-wear solution (Kincaid 2005). It may even become part of the problem rather than the 'solution' (Simeon 2004). This difficulty, for example, can be seen in the potential of federalism to preserve peace in divided societies. For instance, as Bakke and Wibbels (2006) note, though federalism can enhance peace by providing groups or regions with institutional channels in which they can voice their demands, these institutional channels, paradoxically, may also encourage mobilization along separatist lines. The uneven geographic distribution of natural resources and the ensuing regional disparity further complicate the challenges of managing territorially based ethnic, cultural, and linguistic differences in federations. As well, the broader political and identity conflicts in the society may feed into or even exacerbate natural resource conflicts. Thus, even in the absence of violent confrontations, conflicts over ownership, control and/or regulation, and benefits of natural resources such as oil and gas[1] complicate the management of territorial identities in federations by producing what Richard Simeon (1980, 191) calls "a destructive politics of jealousy," which, if not well managed, can accentuate existing ethnic or regional divisions and threaten national unity. It is this potential of federalism to cause disaffection instead of satisfaction that leads Feeley and Rubin (2008) to describe federal arrangements as a ''tragic compromise.''

Given this mixed empirical evidence, opinions of the role of federalism in conflict have remained inconclusive (Bakke and Wibbels 2006). For instance, some scholars hold that federalism helps to manage

[1] "Oil and gas" shall henceforth be referred to as 'oil' throughout the study, unless it is necessary to make a distinction between the two.

conflicts, especially in multinational societies, while others see it as more of a curse that can lead to the disintegration of federal states. Federalism provides mechanisms for the redistribution of resource wealth and improvement in public welfare spending to counteract the regional inequities that may arise from the uneven geographical spread of resources and the grievances that may result, which, as Collier and Hoeffler (2004) note, are key motives for rebellions. However, efforts to redistribute resource wealth can themselves ignite conflict, especially from citizens in resource-bearing regions who may claim that their resources are being used to benefit other regions. This is at the core of the struggles and violent agitations by oil-producing communities in the Niger Delta, Nigeria's oil-producing region, which seek either increased shares of oil wealth or complete ownership and control over oil resources. Another potential source of conflict is the perception that asymmetrical resource rights or revenues confer disproportionate advantages on resource-rich territories at the expense of those that do not have such resources, even as those regions that benefit from these arrangements are also not content with the autonomy granted to them. In addition, efforts to avert natural resource risks, such as saving surplus oil wealth for the future or regulations to smooth out the disruptive effects of oil prices fluctuations, may become serious bones of contention over regulatory rights, the desirability of regulations or savings, and the right to benefits from the revenues between states/provinces and the central government, or between oil-rich provinces/states and other provinces/states in the federation. As Bakke and Wibbels (2006) argue, due to the indeterminate nature of this debate, it is beneficial to examine the conditions under which federalism contributes to conflict or peace, instead of focusing on whether or not federalism contributes to conflict or peace at all.

This thesis explores the processes by which federalism affects conflict over ownership, control or regulation, and sharing of natural resource wealth, specifically relating to oil, in federations. Most comparative studies on the relationship between federalism and conflict have emphasized ethnic conflicts, so that there are fewer empirical and comparative studies explicitly on the effects of federalism on oil conflicts. In the few instances in which oil conflict has been examined through the lens of federalism, these have largely been single-country case studies.[2] This dearth of comparative empirical studies on federalism and oil management, especially of the conflict emerging from this interaction, is regrettable because, as Anderson (2012a) notes, the world's 25 federations represent a large share of global oil production, accounting for almost 50 percent of total global production of oil in 2010 and 55 percent of global production of natural gas in 2009. The relative lack of studies directly focusing on the links between federalism and oil conflict is also regrettable because, as a system of constitutionally

[2] However, attention to the relationship between federalism and conflict in these single-country case studies has not been consistent. Regarding Canada, Monica Gattinger (2015) notes, for example, that although "a number of volumes on Canadian federalism in the 1970s/80s addressed energy" (44) issues, recent scholarship on Canadian federalism has paid "limited attention" (45) to energy, and at best, the energy issue has been addressed not in itself, but as a secondary consideration to discussion of the environment, especially of climate change.

divided powers between different levels of territorial government each seeking to maximize its own power, resources, and interests, federalism represents the archetype that scholars of institutions (Capoccia 2016; Peters, Pierre, and King 2005; Thelen 2010) have in mind when describing institutions as both products and generators of conflict. The potential of federalism to produce or aggravate conflict becomes particularly acute in multinational federations, with the heightened role of identity politics and group struggles for recognition of diversity and differences (Pinder 2007). The existence of strategic economic resources such as oil is expected to create more potential for conflict in multinational federations. The uneven distribution of resources among territorially-concentrated groups, the regional disparity that may result from this distribution, and disagreements that may attend the redistribution of resources in order to ensure regional equity all contribute to this potential.

This dissertation adds to existing knowledge on comparative federalism by comparing intergovernmental conflict, and conflict resolution, over oil in Canada and Nigeria, two oil-rich multinational federations. Drawing on two empirical case examples of oil-related intergovernmental revenue sharing and offshore oil conflict in Canada and Nigeria, I argue that these two federations share some similarities over these issues, and that these similarities reflect the distinctive incentive structure that federalism in its generic form[3] generates for intergovernmental conflict and conflict management over oil in these federations. Elazar (1987, 154) argues that "political institutions common to different political systems, when combined within a federal system and animated by federal principles, are effectively endowed by those principles with a distinct character." Borrowing from this, I argue that federations as different as Canada and Nigeria are likely to see some form of convergence in conflict dynamics as a result of the constitutional divisions of power and principles of shared rule and self-rule that they experience. However, despite the similarities in conflict dynamics in Canada and Nigeria, I argue further that the differences in formal institutional design and informal rules over oil in these federations create different competitive and mobilizational logics and incentives that, in turn, generate distinctive conflict dynamics over oil. In other words, conflict is an inherent and integral part of federations, especially multinational federal states, and particularly in the context of struggle or competition for strategic but unevenly distributed economic resources such as oil. However, there is a difference in between conflict and cooperative dynamics. Wibbels (2006) and Rodden (2006) have urged that serious attention be paid to the issue of institutional endogeneity in their evaluation of the promises of federalism. Because federal institutional arrangements are designed to solve particular problems in societies, the role of endogenous factors in society and their interactions with federal institutions should be the focus, rather than on federal institutions alone. These factors, in some cases, may even trump formal federal design in shaping the workings of federations (Erk 2008). Thus, as Wibbels (2006, 166-167) notes, "appreciating the

[3] Distinctive to federations as constitutional divisions of power between two institutionalized governments, and ideas, norms, and values about divided power.

complex interactions between institutions, the economy, and underlying features of the polity" should be central if researchers are to gain a better understanding of decentralized government and processes. Accordingly, this dissertation also focuses on broader political, institutional, and social factors, which are described in the next chapter, and argues that their distinctive interactions with constitutional authority over oil over time ultimately shape conflict dynamics over oil in Canada and Nigeria.

For this study, federalism is the independent factor, while conflict dynamics over oil is the dependent factor, even though the federal balance and the decentralization/centralization contours of federalism are in turn shaped by conflict dynamics over oil. The term *conflict dynamics* refers to *conflict and conflict resolution processes and their changes over time*. In most econometric comparative analyses of resource conflict, conflict is defined more narrowly as civil war or other forms of mass violence, especially between groups or between groups and governments. The use of violence or high-intensity conflicts such as civil war or insurgency as bywords for conflict has hindered the comparison of a broad spectrum of federations, because although some federations have experienced civil war, others have not. This is not surprising because violent oil-related conflicts that have attracted media headlines have taken place largely in unitary countries, Nigeria being an exception in this regard. In addition, in the few instances in which federations are compared, the emphasis of most scholars on violent content has led to an underemphasis on the nuances of conflict and the intertemporal changes in conflict processes over time. In contrast to the typical understanding of conflict, this study regards conflict as a dynamic relationship between federal governments and states/provinces, or between states/provinces themselves, that vary over time, for which the intensity of conflict is but one dimension. Other dimensions of intergovernmental conflict dynamics that may vary in federations include the degree of assertiveness of claims by parties to the conflict and the concessions made, the degree of conflict intractability or protractedness, and the nature of intergovernmental coordination.

1.2. The Research Problem

Natural resources play important roles in the politics and economies of unitary countries as well as federations. However, the challenges of governing natural resources are more complicated in federal states characterized by a constitutional division of powers over natural resources that are distributed unevenly among the constituent units of the federation (Boadway 2007; Anderson 2010, 2012a, 2012b). The institutional arena that federalism represents provides the constitutional rule and legal context that define the jurisdiction of the different orders of government.[4] This constitutional division of sovereignty

[4] This includes explicit constitutional provisions establishing these powers, as well as other legislations emanating from such sources as decrees, international statutes, court decisions with significant influence over intergovernmental relations, or contentions between orders of governments (and their underlying social cleavages) in the federation. This study focuses on these rules and legal contexts as they relate to oil ownership and fiscal powers.

in a federation effectively places limits, restraints, and safeguards on the sphere of actions of the orders of government, which are not possible in unitary states.

The federal arena of constitutionally divided powers also introduces peculiar conflict dynamics that are not present in unitary systems. This is because federal institutional designs are particularly problematic over contests that explicitly border on redistribution (Filippov et al. 2004; Bakke and Wibbels 2006; Boadway 2007). Natural resources wealth has led to fierce redistributive conflicts and disruptive competition among provinces/states and between provinces/states and central governments, with serious consequences for federal stability (Simeon 1980; Filipov et al. 2004; Boadway 2007). While redistribution aims at mitigating interregional disparities in federations, the intergovernmental system that manages redistribution is a source of serious political tension since redistribution is essentially a zero-sum game (Boadway 2009). Especially in multinational federations in which territorial boundaries largely correspond with the boundaries of an ethnic group, unevenly distributed natural resources may become the focus of intense political and jurisdictional struggles that may provoke ethno-nationalism or secessionist bids.

Though the challenges of managing natural resources are pertinent in both unitary and federal states, these challenges are more contentious in the latter. A distinctive feature of federalism is the constitutional autonomy it provides to politicians representing states or provinces, which empowers them to act as veto players, thereby aggravating collective action problems (Rodden and Wibbels 2002). These constitutionally-empowered orders of government also relate amongst each other over key issues such as the allocation of legislative and administrative competences as well as fiscal powers in a complex system of interdependence (Bolleyer and Thorlakson 2012, 570). Such interdependent interaction between central and sub-national governments also increases the number of veto players involved in joint decision making (Scharpf 1988). This can lead to difficulty in arriving at a consensus or coordination on the essence, path, sequence and pace of policy decisions or reforms, as well as outright jurisdictional conflict.[5] As mentioned earlier, this conflict is heightened by the uneven distribution of natural resources among the constituent units of the federation and the constitutional division of powers over resources in these countries, which can complicate the federal government's redistributive efforts aimed at mitigating regional disparities (Boadway 2007; Anderson 2010, 2012a, 2012b).

This potential of natural resource availability to generate conflict is even more pronounced with oil, because of its high profitability, high utility, and high value, its exhaustibility, the international character of its political economy, the negative externalities of its exploitation/production on the

[5] Scharpf (1997) qualified his earlier argument about the challenges of joint decision making, noting that actors' abilities to navigate the complexity of decision making in multi-level contexts varies from one policy field to another. I argue that the oil policy domain, due to its unique characteristics, is one particularly challenging example of navigating joint decision making.

environment, the cyclical boom-and-bust pattern of oil prices, and most significantly, the potential of unequal distribution of oil resources to affect the structuring of intraregional variations or inequality in access to political and socioeconomic power. Commenting on the unequal distribution of oil, for instance, Anderson (2012b, 374) notes in a study of 12 oil-rich federations that all but one of these countries experienced "significant regional concentration of production" with typically the largest part of this production situated in "constituent units representing less than 10 or 15 percent of the population." Such a concentration of resources in regions belonging to ethnic or linguistic groups that are 'minorities' in the national context of their countries may, if not carefully managed and distributed, have grave consequences for stability and national unity in these federations. Federalism may, therefore, add another dimension to the challenge of managing natural resources at the same time that natural resources attain additional significance in federations, place additional pressures on federalism, and may even shape the nature and practices of federalism in resource-endowed federations.

The relationship between federalism and oil governance can therefore raise the political stakes of conflict, as oil-rich constituent units or communities want to control the resources and keep the revenues to themselves, whereas resource-poor states/provinces or communities also struggle to benefit from these resources. The desire of the federal government to carry out redistribution of oil revenues, in order to address the regional inequality arising from unequal distribution of oil resources, aggravates this tension. Further complications arise in countries whose federal governments are not neutral redistributors of oil revenues, but also depend on the redistributed revenues for their own expenditures. If not well managed, the conflict emerging from these interactions can deflate national unity, undermine effective governance, or lead to conflict that can negatively affect social well-being or even unravel the very basis of the nation-state itself.

This study examines how federalism affects the generation and management of oil conflicts in Canada and Nigeria, especially between governments. Nigeria and Canada are oil-rich multinational countries in which differing ethnic, cultural, and regional claims underlie political competition, and strong pressure for the protection of these identities and interests exists. They are also countries characterized by uneven geographic distribution of oil resources (Hueglin and Ferna 2015; Haysom and Kane 2009; Suberu, 2001). In addition, and most importantly, both countries have adopted federalist models of government to manage their ethnic or cultural diversities as well as the uneven distribution of resources among territories. However, the management of these issues has sometimes posed significant difficulties (Gagnon and Simeon 2010; Suberu 2010; Iledare and Suberu 2012; Ploudre 2012).

A major motivation for this dissertation stems from the fact that, despite the abundance of scholarly research on conflict in multilevel contexts, sufficient attention has not been paid to intergovernmental

conflict in federations.[6] In other words, there tends to be a bias in favour of social conflicts, largely conflicts between ethnocultural groups, in extant literature on conflicts in multinational federations. This bias leads to a significant knowledge gap regarding the role of formal institutions and elected political elites in these conflicts.

As is well known, the study of conflict in federations is a vast and informative field. Several scholars (Alemán and Treisman 2005; Amoretti 2004; Anderson 2016; Bakke 2015; Bakke and Wibbels 2006; Brancati 2009; Bermeo 2002; Amoretti and Bermeo 2004; Bunce 2007; Fearon and Laitin 2002; Hale 2008; Horowitz 1985; Kymlicka 1998; McGarry and O'Leary 2005; Nordlinger 1972; Roeder 2009; Rothchild and Roeder 2005) have specified the conditions under which federalism or decentralist arrangements can spur or mitigate group conflict. However, in most of these studies, to the extent that federalism (or, more appropriately, decentralization, which is used as a byword for federalism in some of these studies) is seen as a device for managing territorial conflict in multinational societies, the emphases have largely been on ethnofederalism, a federal arrangement in which "at least some, if not all, the constituent units of the federation are homelands controlled by their respective ethnic groups" (Roeder 2009, 204). This is not surprising because, as Varshney (2007, 275) noted, "ethnicity has become a growth industry, straddling a variety of disciplines, topics, and methods, and attracting a large number of scholars." The excessive focus on ethnic conflict has in turn occluded focus on the process of intergovernmental relations, the centrepiece of federalism, as well as the incentives and constraints for action that the constitutional allocation of power provides to political elites representing the orders of governments, such as federal rule allocating power over oil, and ideational repertoires embedded in federal institutional rule. In other words, the knowledge advanced by extant scholarship on ethnofederalism is largely based on ethnic conflict and not federal institutional design. In spite of the rise of institutionalist views of ethnic conflict in comparative politics, which has helped to explain, for instance, why some multiethnic societies experience violent conflicts while others remain peaceful (Varshney 2007, 289), the institutions at the centre of these debates are auxiliary to federalism. Some of these include power sharing, electoral system designs, party systems and organization of political parties, and the role of civil society (Varshney 2007, 289). Although federalism does come into play, the debate centres largely around federal-unitary government dichotomy and takes for granted the differences in territorial division of power in federations and the variety of federal constitutional designs (Benz and Broschek 2013a, 2013b; Livingston 1952; Watts 2002). This dissertation, which focuses on intergovernmental conflict in two multinational federations, aims to bridge this research gap, without taking for granted the pressures from social cleavages, including territorially based ethnic identities and institutional responses or reactions to these pressures.

[6] I explain the other scholarly gaps in the literature on the nexus between federalism and conflict in the literature review.

As a corrective to the existing literature's understanding of conflict as armed violence, and thus as a feature of some federations and not others, or a feature of some research areas such as ethnic relations and not others, this project regards conflict as an integral part of federations, particularly oil-rich federations. I argue here that differences in conflict processes in federations are ultimately differences in the territorial allocations of power, which can be centralized or decentralized. Using conflict dynamics as an analytical tool, I demonstrate that federalism, especially the particular form of federal constitutional design allocating jurisdiction over oil and the idea of federal community embodied in this formal institutional rule, affects oil conflict in Canada and Nigeria. This empirical and paired comparison will better account for the nuances of conflict processes that are lost or overlooked by the simplified view, found in many studies on the links between oil and conflict or between ethnofederalism and ethnic conflict, of conflict as degree of intensity, with emphasis on high-intensity ethnic conflict in its different ramifications. The dissertation also draws from historical institutionalism with its focus on the temporal dimensions of politics. This analytical frame is particularly suited to investigating the historical construction of federal institutional rules over oil and the conflict over those rules, including the sequence of the creation of federal rule over oil, the changes to these rules over time and conflict over them; critical junctures, and path dependent influences on conflict; and, as well as the contingent nature of political struggles over federal rules regarding oil. Through this understanding, the study contributes to extant comparative studies of conflict in multinational federations and to single-country studies, as well as to explorations of the links between federalism and oil conflict, including the 2012 collection of reviews of twelve countries, including Canada and Nigeria, edited by Anderson. This study should also contribute to the generation of original knowledge that can serve as inspiration for future studies of federalism and oil-related conflicts.

1.3. Federalism and Oil Conflict in Canada and Nigeria: A Brief Overview

The past and contemporary histories of both Canada and Nigeria are replete with empirical examples of the difficult interactions between federalism and oil. Some examples will suffice. First, because oil is a commodity dependent on the international market, changes in oil prices could negatively influence the economies of states/provinces that depend on exports, such as the manufacturing industry in Ontario, even as they benefit oil-producing states/provinces such as Alberta (Spiro 2013). This is the route that may lead to the "Dutch disease," in which high commodity prices lead to rapid growth in the exchange rate, which crowds out trade-exposed industries such as manufacturing, making them less competitive (Boadway, Coulombe, and Tremblay 2012; Coulombe 2015; see also Canadian Press 2012a). For instance, then-Ontario Premier Dalton McGuinty consistently blamed Alberta's oil sands for driving up the dollar and hurting exports of Ontario's manufactured goods (Spiro 2012). This claim was debunked by Mark Carney, then Bank of Canada Governor (Babad 2014; Carney 2012). However, even if they are erroneous, such claims could strain interprovincial relations and even damage national unity by eroding the trust

that is vital for the operation of the federal framework. Decreases in oil prices can also distort the fragile balance of economic power in federations, turning, for example, 'have' provinces into 'have not' provinces for equalization purposes. For instance, the global oil price for Brent crude traded $36 per barrel by January 22, 2016, which translated to a decrease of more than 60 per cent since 2014 (Krauss 2016). This oil price slump has led to job losses as well as reduction in private income and government finances in oil-producing provinces such as Alberta and Saskatchewan. Plunging oil prices necessitate urgent adjustments in the equalization program to prevent oil-dependent provinces from being doubly burdened by oil price slumps and by significant contributions to the equalization program. However, because the program is typically reviewed every five years, it is consequently less equipped to proactively respond to historical contingencies such as sudden shifts in oil prices.

Second, the nation-threatening disparity in wealth and fiscal imbalance that arises from the uneven spread of natural resources can lead to conflict over redistribution of wealth from resource-rich provinces to poorer ones, as is the case in Canada and Nigeria. In Nigeria, for instance, where natural resources are the only or predominant source of revenues, central control of oil in order to avoid the concentration of wealth in the resource-rich region has elicited strong resistance from the resource-rich states. Over the years, these states have struggled, in addition to contestations by communities and militant groups who sometimes use violent conflict repertoires, either to increase the amount of oil revenues that comes to them or to control the resources completely. Such conflicts over sharing of resource revenues are not restricted to centralized federations, such as Nigeria, in which the federal government controls oil and mineral resources. In Canada, for example, the Constitution Act of 1867 granted ownership of natural resources to the original provinces of Confederation. The federal government's attempt to withhold this right from the Prairie Provinces – Manitoba, which joined Confederation in 1870, and Alberta and Saskatchewan, which joined in 1905 – in order to secure funds for colonization and railways led to bitter struggles between the provinces and the federal government, until those rights were restored in 1930 (Thompson 1999).

Aside from questions over ownership and revenue sharing, federal intervention to avert volatility, especially in response to international energy crises, can also lead to conflict in federations, because these interventions may require adjustment or redistribution of wealth from the resource-rich province(s), and these adjustments may be regarded as unjust or unfair. In Canada, the federal government's response to the energy crisis of the 1970s was the creation of the National Energy Program in 1980, intended to achieve energy self-sufficiency and insulate the Canadian economy from oil-price volatility. The program, which seems also to be a reflection of Trudeau's earlier stated vision of an increasing role for the federal government in pursuing "as a basic policy goal, the development of balanced and diversified regional economies across the land" (Tupper 1981, 91), also aimed to redistribute oil revenues so as to lessen the cost of oil for Canadian citizens in the oil-consuming

provinces. However, many in the Western provinces regarded this intervention in the oil sector as a desire to control oil activities (Fossum 1997) and as a manifestation of "Western alienation," the perception that Western provinces are marginalized by a federal government that is often dominated by politicians from Central Canada (Lawson 2005). Western politicians criticized the federal government's interference in the oil industry, which is under provincial jurisdiction, and for the loss of revenue due to mandatory fiscal contributions by Western provinces such as Alberta to other parts of Canada. As Fossum (1997, 8) noted, the intense intergovernmental conflict led to heightened uncertainty and an "inability to develop stable and predictable regulatory regime under which the public and the energy companies would benefit."

In addition to conflict between provincial governments, or between them and the federal government, over natural resources, conflicts can also arise between the two orders of government (or one of them) and environmental groups, indigenous communities, or even municipalities over the impact of oil exploitation on the environment and their wellbeing. In Nigeria, for instance, concerns over environmental sustainability and the health and economic wellbeing of indigenous communities in the Niger Delta have inspired insurgencies and violent attacks on oil facilities and oil workers (Oriola 2013). These conflicts not only led to forced shut-in of oil production, but were also exploited by groups that engage in criminal acts such as illegal oil bunkering (theft of oil) to damage oil pipelines from which crude oil or petroleum products are siphoned for sale. Spillage in the process further complicates an already bad environmental situation. The most famous such case was the 1995 hanging death of Ken Saro-Wiwa, an environmental activist and leader of the Movement for the Survival of the Ogoni People (MOSOP). Saro-Wiwa co-founded the MOSOP to defend the rights of the Ogoni ethnic minority community against the military junta of General Sani Abacha. He and eight other members of the organization were accused of sabotage and of killing pro-government members during their campaigns against Shell BP and the federal government. They were sentenced to death by a military court after having been accused of killing four other Ogoni leaders who were sympathetic to the government (Lewis 1995).

In Canada, concerns over environmental and health risks of oil exploitation have not degenerated to the level of persistent violent conflicts and execution of environmental activists as in Nigeria. However, these concerns have featured in indigenous land claims and self-determination movements, as well as the opposition of environmentalists and First Nations to development in the sector. One such example in Canada was the resistance to the proposal to construct a natural gas pipeline in the Mackenzie Valley in the 1970s, which led to the imposition of a 10-year moratorium based on the recommendation of Judge Thomas Berger (Laxer 2015). Another, more recent, case is the resistance to the Keystone XL pipeline and Enbridge Northern Gateway projects (Johnson 2015). At the same time, environmental politics has also featured prominently in the altercation between the governments of Alberta and British Columbia over the Northern Gateway pipeline project, as well as that between the Alberta and Quebec

municipalities and some Aboriginal groups, such as the Maliseet Nation, over the proposed Energy East pipeline, which is expected to transport 1.1 million barrels of oil a day from Alberta to Irving Oil Ltd.'s refinery in Saint John, New Brunswick (Taber, McCarthy, and Fife 2016; CBC News, February 8, 2016). Alberta's Premier Rachel Notley and supporters of the pipeline project, such as Prime Minister Justin Trudeau, Ontario Premier Kathleen Wynne, Saskatchewan Premier Brad Wall, and Calgary Mayor Naheed Nenshi, hail it as a beneficial economic project not just for Alberta but also Canada as a whole (Taber, McCarthy, and Fife 2016). On the other hand, opponents such as the Wolastoq Grand Council representing the Maliseet Nation have described the pipeline project as "the toxic sludge" and vowed not to allow the pipeline pass through their homeland (CBC News, February 8, 2016).

Oil development has been hailed for spurring economic growth in oil-rich countries such as Canada, where increased oil revenues have allowed both oil-rich provinces and the federal government to carry out 'province-building' and 'nation-building' projects, respectively, as well as competitive, aggressive and innovative economic management for the betterment of the provincial societies or national community in such areas as health, infrastructure, and education. However, the interaction between oil and corporate power has also produced damaging consequences, especially for the relationship between the citizen and the state. Many critics have noted, for example, that oil production leads to the marginalization of citizens, who are shut out from meaningful participation in oil-related decision making, in favour of powerful oil companies. For example, Alberta, especially under the Conservative Party, has been accused of offering untaxed profits, royalty holidays, and subsidies to oil companies, with oil revenues being used as slush funds to "buy votes" through subtle policies such as reduced income taxes or cancelled sales tax, and through more brazen or wrongheaded acts such as the $1.3 billion that Premier Ralph Klein distributed to Albertans as a "prosperity bonus" in 2006, with each citizen receiving $400, rather than depositing the money in the Heritage Fund established by Peter Lougheed in 1976 (Marsden 2008; Nikiforuk 2010). Riding on the wave of what Thomas (1959, 114) calls "provincial nationalism," especially during crises with the federal government, Alberta's political figures projected themselves as defenders of the province's general interest, while in practice, the citizens are profoundly disengaged from debates over resources, due to government secrecy and opacity designed to keep citizens uninformed about how the politics of resources is skewed against them in favour of the oil companies and the province's political elites (Pratt 1976; Marsden 2008; Nikiforuk 2010). In Nigeria, in which oil ownership and control belong to the federal government, Cyril Obi (2010) has also highlighted the extensive influence of oil multinationals on the Nigerian government, as a result of these companies' technological power and financial resources. He points out that the alliance between the state and oil companies leads to "dispossession of local people and fuels violent resistance in Nigeria" (Obi 2010, 219).

Although the influence of multinationals on oil-rich governments and the discountenance of citizens' desires to reap a "fair share" of revenues from oil resources should be emphasized, the temporal

dynamics in the relationship, or the role of external shocks and contingencies, should not be ignored. For example, Alberta's New Democratic Party (NDP) government decided to abandon the royalty increase they promised in their 2015 election platform. Following the completion of its work, the Alberta Royalty Review Panel announced that there would not be an increase in existing royalty for oil wells drilled before 2017 until after 10 years, while investors "will pay a flat royalty rate of five per cent until payout, followed by a higher rate once those costs are recovered" for new oil wells drilled after 2007 (Wood 2016). Many citizens have been disappointed in this decision, which they describe as the giveaway of the province's resource and the provincial government's "capitulation to Big Oil and its financial backers" (Nikiforuk 2016). However, the Panel argued that there was no need to change the existing royalty system as "current share of value Albertans receive from our resources is generally appropriate" (Nikiforuk 2016). Premier Notley also felt that the Panel's decision was justified and accepted by the government, arguing that instead of increasing royalties, such a cautious approach as recommended by the Panel was appropriate at a time when the oil industry "is in a precarious and somewhat struggling situation" (Wood 2016). With the review occurring at a time when the oil industry was in dire straits with job losses and production shutdown, the ability of the Alberta government to withstand oil companies' pressure was weakened, though the oil companies were themselves under pressure to shut down production. The NDP's election campaign could be said to give the impression that the party was interested in increasing the royalty. Even so, its relative bargaining power as compared to the oil companies dissipated over time as oil prices continued to plummet during the five-month review period, a dynamic that would have been reversed in a boom period.

The examples outlined above pinpoint potential areas of conflict in the interaction between federalism and oil management in Canada and Nigeria. These include ownership, control and regulation of natural resources, sharing of resource revenues, state-market interfaces in resource exploitation, and environmental governance. The examples demonstrate that the intersection of oil and federalism involves numerous dimensions that no single research project can adequately address. Accordingly, the analytical part of this dissertation primarily focuses on the pattern and processes of intergovernmental fiscal relations and the place of oil in these processes, and on offshore oil conflict.[7] This study hopes to provide a better understanding of the effects of federalism on conflict in these two federations and in the aforementioned areas, using a paired comparative approach that enables close and detailed study

[7] Conflicts between resource communities and governments, between resource communities themselves, between resource communities and oil companies, or between oil companies and governments are not the primary foci of this dissertation. This includes conflict over environmental regulation or compensation for environmental pollution by oil companies. I will use arguments regarding these relations only to the extent that they clarify the pressures from federal society to which governments respond and how such responses shape conflict dynamics. Also, this project is not concerned with issues relating to macroeconomic management, including the effects of resource revenues on other sectors or conflict over savings of natural resource windfalls.

and provides enough leverage for the sufficient evaluation of the interactional effects of study factors (Tarrow 2010). As noted earlier, it does so with the particular sets of tools provided by historical institutionalism for the study of the origin of federal institutional rules allocating power over oil and their temporal evolution over time, but also continuity and changes and the conflict over these processes but also the power struggles over these institutional rules and their underpinning ideas.

1.4. Research Question and Aims of Study

This study examines the complex relationship between federalism and resource management in multinational federations, with Canada and Nigeria as specific case studies. I examine two specific examples of horizontal and vertical intergovernmental conflict in the onshore and offshore domains: oil-related intergovernmental fiscal transfers, and 'ownership,' jurisdictional/legislative, and revenue rights over offshore oil (or offshore mineral rights).

The general question being asked in this project is:

How does federalism affect the generation and management of intergovernmental conflict over oil in Canada and Nigeria?

Haysom and Kane's (2009) problematization of the constitutional and political issues relating to the management of natural resources identify three broad challenges: ownership or proprietary rights; jurisdiction or legislative rights over the control or regulation of natural resources; and rights regarding the sharing of natural resource revenues. This study focuses specifically on oil-related intergovernmental fiscal transfers and offshore mineral rights, though I do explain the three broad challenge and their various components below.

Ownership conflict can arise between the federal government and states or provinces, between resource-rich and non-resource rich provinces/states, or between resource-bearing communities and either or both orders of government. Because international investors carry out oil exploration, balancing the ownership rights of this category of actors may add another dimension to ownership claims in a federation. For example, international investors are mandated by policies or laws to compensate indigenous communities adversely affected by the exploitation of natural resources (Haysom and Kane 2009, 12).

The second challenge in natural resource governance is the allocation of legislative authority over the control of natural resources. This deals with the question of which order of government, federal or provincial, "should have the authority to make and administer laws relating to the development and exploitation of natural resources" (Haysom and Kane 2009, 6). In federations such as Nigeria, the constitution may allocate powers over ownership and control of natural resources to one order of

government. In others, ownership and control may be assigned to different levels of government; for example, in India, states own onshore oil resources while the federal government has management rights (Noronha and Srivastava 2012). In fact, the question of ownership rights and limits on natural resource development is dependent on the power to legislate and regulate natural resource policies (Haysom and Kane 2009, 6). In unitary states, the central government has the authority to pass laws to regulate natural resources and administer these laws, unless the constitution provides otherwise. By comparison, "in many federal or decentralized states, the distribution of these functions is a sharp point of contention precisely because it is often this allocation of power, and not ownership rights in themselves, that determines control over natural resources" (Haysom and Kane 2009, 13). There are different dimensions of control ranging from the "contracting authority and procedures; licensing, taxation and royalty regimes; employment practices; safety and environmental standards; transportation networks; labor laws, import and export permits and tariffs; and almost any other matter that can affect the development of the natural-resources sector" (Haysom and Kane 2009, 13).

Many federations face challenges over how best to assign executive and legislative authority over natural resources to meet competing goals of efficiency and capacity, equity, accountability and national interest (Haysom and Kane 2009, 15). Besides the question of the choice over which level of government has legislative authority over natural resources, potential sources of dispute may also include interprovincial disagreements over control or regulation of natural resources that traverse provincial boundaries, and "territorial disputes and allegations of theft of these resources between provinces" (Haysom and Kane 2009, 17).

Table 1: Onshore Ownership, Management, and Revenue Assignment for Petroleum in 12 Federations

Country	Ownership	Resource management	Resource revenue
Argentina	Province	Provinces	Provinces/Federal
Australia	States	States	States
Brazil	Federal	Federal	States/Federal/Municipal
Canada	Provinces	Provinces	Provinces
India	States	Federal	Federal/States
Malaysia	States	Federal	Federal/States
Mexico	Federal (nation)	Federal	Federal
Nigeria	Federal	Federal	Federal/States
Pakistan	Joint	Federal	Provinces
Russia	Joint	Federal	Federal
United states	States/federal/private	States/federal	States/Federal
Venezuela	Federal	Federal	Federal

Source: Anderson (2012b, 378).

Complicating matters further, in order to forestall the secessionist tendencies of territorially based ethnic or religious groups that see themselves as distinct from the rest of the national population, many federations may assign authority over natural resources to such groups, thus granting them the special ability, which other groups in the federation lack, to manage natural resources within their territories. This sort of accommodation of diversity is an advantage of federalism in preventing conflict (Watts 2005). However, it does risk aggravating differences, especially from resource-poor territories whose people feel that they are not getting their fair share from the federation. If not well managed, this dynamic can exacerbate rather than attenuate the original pressures that asymmetric federalism was designed to solve (Bird and Ebel 2007).

The third bone of contention in natural resource management is the question of who should collect natural resource revenues and how those revenues should be distributed (Haysom and Kane 2009). What makes this question challenging for constitutional makers in federations is the different, largely contradictory, objectives and concerns, such as equity and national unity, that various constitutionally empowered constituents may want to use this process to achieve (Haysom and Kane 2009). Balancing these conflicting concerns to which natural resources revenues should be put has serious implications for the fostering of peace, but striking such a balance is difficult as achieving some of the goals may lead to the forfeiture of others, which may in turn lead to disaffection by proponents or supporters of such concerns. As well, the choice of which objective to take precedence may involve a costly trade-off, such as using resource revenues to reduce interregional equity intergovernmental transfers that create negative incentives for subnational units to create wealth or internalize spending. At the same time, adopting a formula for the sharing of revenues, even though intended as a compromise that is beneficial to the different regions and or groups, may satisfy none. For instance, as Horowitz (2007) notes, in

federations, disaffection with the treatment of natural resources is restricted not to only poor regions. Rich regions may also believe they are not sufficiently benefiting from resource wealth, even though they benefit disproportionately in comparison with the poor regions. The different forms of dissatisfaction from both resource-rich and resource-poor provinces or states stem from the perception of rich regions that they are subsidizing spending in poor regions, and the perception in poor regions that they are gaining little from the wealth that belongs to the federation because of the disproportionate transfer of such wealth to resource-rich regions or because the constitution bestows ownership, and hence revenue rights, on them.

Oil has featured prominently in both Canada's and Nigeria's revenue sharing agreement, though in varying degrees. The role of oil in revenue sharing has led to conflict between the federal government and the oil-producing regions on the one hand and between producing and non-producing regions on the other. Thus, both federations have had to make different forms of adjustments to accommodate different constitutionally empowered territorial interests and non-constitutional actors, such as ethnic communities (especially in Nigeria) or oil industry (especially in Canada) to address fiscal disparities and ensure a proper balance between centrifugal and centripetal claims in the federation (Plourde 2012; Iledare and Suberu 2012). This study aims to contribute to an understanding of these conflict processes and their patterns of adjustments over time in both Canada and Nigeria.

To reiterate, though the challenges of managing natural resources such as oil are pertinent in both unitary and federal states, they are more contentious in the latter. A distinctive feature of federalism is that it provides politicians representing states or provinces with constitutional autonomy, which empowers them to act as veto players, thereby aggravating collective action problems (Rodden and Wibbels 2002). These constitutionally empowered orders of government also relate with each other over key issues such as the allocation of legislative and administrative competences, as well as fiscal powers, in a complex system of interdependence (Bolleyer and Thorlakson 2012, 570). Such interdependent interaction between actors[8] from the central and sub-national governments also increases the number of veto players in joint-decision making and can lead to a lack of consensus on context and direction of reforms or decisions, and even to jurisdictional conflict. As mentioned earlier, this conflict is heightened by the uneven distribution of oil resources among the constituent units of the federation and the constitutional division of powers over natural resources in these countries, which can complicate redistributive efforts aimed at mitigating wide regional disparities arising from the uneven geographic spread of these resources (Boadway 2007; Anderson 2010; Anderson 2012a, 2012b).

[8] Unless otherwise stated, the term "actors" here refers to political elites representing the provincial/state and federal governments in these federations.

In addition to analyzing the ways in which federalism as a generic institutional feature affects oil conflict in federations, my dissertation also examines how distinctive federal constitutional designs relating to oil interact with economic, social and political structures in the broader polity to shape oil conflict. Specifically, I examine the interaction of federal rules with macrostructural factors such as social heterogeneity around oil, the nature and degree of dependence on oil, and the geographical distribution of natural resources, as well as political processes and practices relating to intergovernmental bargaining.

The constitutional division of authority in federations can generally be described as centralized or decentralized (Riker 1964), though the situation is more complex than these descriptions suggest.[9] Using this heuristic dichotomy, we can broadly categorize ownership, regulation, and fiscal authority over oil as centralized and decentralized, with Nigeria representing the centralized model while Canada represents the decentralized model. Canada is characterized by an "unusual degree of decentralized authority over natural resources" (Cairns 1992, 55), in which oil resources and revenues belong to the provincial governments. In Nigeria, oil is owned, controlled, and regulated by the federal government, even though the country's "fiscal architecture constitutionally and statutorily guarantees the devolution of considerable amount of centrally collected oil revenues to the federation's states and local governments" (Iledare and Suberu 2012, 227). Second, there are also differences in conflict outcomes. For instance, with the degree of intensity as a measure of conflict, one would be tempted to conclude that oil conflict in Canada is peaceful while that of Nigeria is violent. The fact that Nigeria has occasionally experienced violence, including insurgencies and kidnappings of oil workers (Iledare and Suberu 2012; Suberu 2001, 2004; Obi and Rustad 2011; Collier and Venables 2011; Ross 2012; Oriola 2013), and a civil war between 1967 and 1970 in which over 1 million people lost their lives following the decision by what was then the Eastern Region to secede from the federation and form the Republic of Biafra[10] (Ahmad and Singh, 2003; Osaghae 2015a) would rightly support the above claim. However, as stated in passing earlier, the conventional view of conflict as a mutually exclusive dichotomy between

[9] Even though a federation may be dominantly centralized or decentralized at a particular point in time and can be presented as such for analytical purposes, this measure of constitutional allocation of power is not a binary opposition (Treisman 2002). Rather, it should be seen more as a continuum, with the potential to oscillate between these two characteristics in the course of the historical development of a federation. At the same time, some federations may combine both characteristics by allocating legislative competency over different aspects of the same issue, such as oil, to both central and constituent units' authorities, even though a particular aspect of these features, such as a centralizing tendency, may gain ascendancy in the overall balance of power.

[10] The Eastern Region, as it was then known, was one of the original three regions that successfully negotiated a federal political order for Nigeria under British colonial rule, leading to the eventual institutionalization of the federal principle in 1954. The region was dominated by the Igbo, one of Nigeria's three major ethnic groups, and other ethnic minority groups which, by the time of the civil war in 1967, made up six of the present nine oil-producing states.

violent and non-violent or peaceful conflict is useful to a point, perhaps for classification purposes, but no further. The binary view of conflict does not accurately account for the changes and processes involved in the emergence of conflict, the patterns of responses to conflict provocation, and the escalation and de-escalation trajectories that occur over time within the broad categories of violent and peaceful conflict. Such a preoccupation with violence also precludes understanding of conflict, especially in federations, as a dynamic process characterized by dimensions other than intensity, such as the degree of assertiveness of claims made, the degree of concession won by the provinces/states, the degree of conflict intractability or protractedness, and the nature of intergovernmental coordination. In this project, this alternative view of conflict helps to explain disputes over offshore oil rights.

The foregoing leads us to the following specific research questions:

i) How have the current dominant forms of formal institutional design allocating power over natural resources – decentralization in Canada and centralization in Nigeria – emerged and evolved over time? What conflicts have ensued over the particular form of institutional design for natural resources in each federation? How have these conflicts been managed?

ii) Which factors other than constitutional design are salient in the generation of conflict? How do these factors interact with constitutional division of power to shape the outcomes of conflict?

In answering the research questions, this comparative case study examines two empirical dimensions of the broader natural resource management challenges involving ownership of natural resources, legislative, jurisdictional or control rights, and sharing of natural resource revenue challenges, as identified by Haysom and Kane (2009). These challenges are conflicts over onshore oil-related intergovernmental fiscal transfers; and 'ownership' and control of offshore oil resources and sharing of the revenues that result. These two dimensions of the study's empirical focus differ temporally and spatially between Canada and Nigeria; however, they were chosen both because they have been the sources of conflicts and because they represent challenges that both countries share. For instance, in both Canada and Nigeria, 'ownership,' jurisdictional and legislative rights over offshore mineral rights and associated revenues legally belong to the federal government, although the littoral offshore oil-producing constituent units in both countries have different kinds of rights regarding these resources and revenues (Anderson 2012b). Following years of agitations leading up to decisions by the Supreme Courts of Newfoundland and Labrador, Canada, and Nigeria vesting ownership rights in the federal government, the littoral oil-producing provinces and states in Canada and Nigeria eventually won some concessions in this regard thanks to certain 'political settlements.' In Canada, thanks to the Atlantic Accords, littoral provinces such as Newfoundland and Labrador[11] and Nova Scotia won shared management rights for

[11] Hereafter referred to as "Newfoundland" for brevity.

offshore resources with the federal government, as well as rights to benefit from resource revenues (Plourde 2012). In Nigeria, a legal case instituted by the federal government asking the apex court to determine who owns jurisdiction over Nigeria's offshore seabed between the federal government and 9 littoral states, and hence to decide whether the derivation principle in section 162 (2) of the 1999 Nigerian Constitution[12] also applies to offshore oil revenues, was decided in 2002 in favour of the federal government. However, following this legal victory, a 2004 political compromise between the federal government and the littoral states, reached through the National Assembly's enactment of the Allocation of Revenue (Abolition of Dichotomy Application of the Principle of Derivation) Act 2004, partially amended the Supreme Court ruling that the federal government has exclusive jurisdiction to offshore resources and revenues. The political settlement conceded derivation from offshore revenues to the littoral states, but only from natural resources that are "located within 200 meters water depth Isobaths contiguous" to these states (National Assembly of Nigeria, 2004). How have these conflicts evolved over time, and what is the role of federal constitutional design allocating power over oil or other mineral resources in these conflicts?

The answers to these questions will *focus on conflict dynamics involving territorial governments: the vertical and horizontal relationships and/or conflict between federal and provincial or state governments and between provinces or states themselves*. However, although the study's primary focus is on the relationship between these formal actors (or actors representing governments) in the federation, it also recognizes other informal non-constitutional actors besides these, such as oil-bearing communities and multinational companies, which may influence the development of conflict. While these non-state actors are not the focus of this study, attention will be given to how, whether or not, and the ways through which they counterbalance or bolster the conflictual or cooperative orientations and actions of actors representing governments and the particular ways that institutions contrain or provide opportunities for their actions.

1.5. Research Methodology and Design

This section outlines the research methodology and design used for the study. I first present the case selection technique, justifying the choice of Canada and Nigeria as the federations to be comparatively studied. This is followed by some discussions of the dependent variable, and the tools of data collection that were used in this study. Generally, in order to align the methodological approach of this project

[12] Derivation is a revenue-sharing criterion in Nigeria, which requires that a portion of the revenue be returned to the states from which it was generated. In the 1999 Constitution, this principle provides that, in the sharing of funds from the Federation Account, 13 per cent of mineral resource revenues should be returned to the states from which the revenues originated. The weight attached to derivation has changed over the years, and this has been a great source of tension in revenue sharing.

with the research question and the analytical framework of historical institutionalism, to be discussed later in this section and in Chapter 3, this study uses a comparative historical analysis (CHA) methodology.

According to Harsanyi (1976, 232), a central challenge in the study of social facts is how to explain historical development. The question of comparative dynamics entails providing explanations of the "similarities and differences in the development over time of different societies or different parts of the same society, in terms of the *initial conditions* (i.e. the conditions prevailing at some arbitrary point of time chosen as the starting point of our investigation) and in terms of the subsequent *external influences* (boundary conditions) affecting their development" (Harsanyi 1976, 231, italics in original). The methodological approach that is best suited for this challenge is CHA. As Mahoney and Rueschemeyer (2003, 7, 13) noted, CHA is a historically grounded methodology that places emphasis on causally analytical "systematic and contextualized comparison" of "temporal sequences and unfolding of events over time."[13] This study involves a comparative historical analysis of the impact of constitutional-institutional rules concerning oil, as established in the formation of federal states in Canada and Nigeria, and the evolution of these institutional arrangements, on subsequent conflicts.

1.5.1. Case Selection Technique and Justification

Since the goal of this study is to identify and explain similarities as well as differences, I utilize the diverse case (Gerring 2007; Gerring and Seawright 2008) or maximum variation (Patton 1990) case selection technique. The most common case selection techniques—the most similar system design [MSSD] and the most different systems design [MDSD]—are not used in this study because these methods assume a deterministic understanding of causality (Mahoney 1999) and thus do not sufficiently account for multiple interaction effects. Therefore, I adopt the case selection design that is most attentive to the effects of interaction between multiple factors and their different combinatorial effect on outcomes.

According to Gerring and Seawright (2008, 300), diverse case selection technique "requires the selection of a set of cases—at minimum, two—which are intended to represent the full range of values characterizing X, Y, or some particular X/Y relationship," with the "primary objective of maximum variance along relevant dimensions" (Gerring and Seawright (2008, 300). According to Patton (1990, 172), this kind of purposive sampling selects cases involving different experiences, in order to "more thoroughly describe the variation in the group and to understand variations in experiences while also investigating core elements and shared outcomes." In other words, the diverse case technique is based

[13] CHA, in essence, can be likened to historical institutionalism that embodies the characteristics of casual analysis and systematic and contextual comparison. The third feature of CHA, attention to temporary sequence of processes over time, is already inherent in most historical institutionalist scholarship. Given this intricate relationship, Mahoney and Rueschemeyer (2003) argue that CHA is a branch of historical institutionalism, but historical institutionalist works that do not explicitly embody systematic comparison and causal analysis do not fit into CHA.

on the heterogeneity of cases, leading to two categories of findings: high-quality, detailed descriptions of each case, which are useful for documenting uniqueness, and important shared patterns that cut across cases and derive their significance from having emerged out of heterogeneity (Patton 1990, 172).

Mahoney and Rueschemeyer (2003, 8) have the diverse case selection technique in mind when they assert that comparative historical analysis (CHA) enables researchers to study "specific sets of cases that exhibit sufficient similarities to be meaningfully compared with one another," with "sufficient similarities" a theoretical defined phrase whose meaning may go beyond literal similarities to "encompass cases that from a different point of view may appear to be quite dissimilar" (Mahoney and Rueschemeyer 2003, 8). In other words, "focus on sufficiently similar cases in no way excludes the comparison of highly diverse contexts, including diverse contexts in which similar processes and outcomes take place" (Mahoney and Rueschemeyer 2003, 8).

The use of the diverse case selection method fits into recent scholarship on the 'varieties of federalism' as a beneficial approach to comparative research on federations or federalisms, which, as Simeon and Radin (2010, 358) point out, "are infinitively invariable" with each one "*sui generis*" and allowing for only few, if any, robust generalizations between them. The existence of 'variants' or 'varieties' of federalisms (Benz and Broschek 2013a, 2013b; Livingston 1952; Watts 2002), instead of one single type of federalism, in turn invites consideration of the particular challenges that different federations face at their formation, the specific kinds of federal constitutional arrangements designed to tackle these challenges, the patterns of adjustments or balance in response to changing circumstances or needs of the federal society (Benz and Broschek 2013a, 2013b), and the (dis)incentives these federalisms offer for political outcomes, such as oil conflict dynamics. The diverse case technique is therefore well suited to capture these nuances.

Finally, a comparative analysis of diverse cases enable us to understand and explain differences better (Simeon and Radin 2010, 358). It will also allow us to discover whether elements that might have been taken for granted as *sui generis* characteristics of one national experience are as unique as imagined, or are in reality characteristics shared by different cases, even though the pathways and mechanisms leading to these outcomes may be different.

Canada and Nigeria were chosen as the subjects of this study because they represent diverse cases. Unlike most works on comparative federalism, this project covers both a developed and a developing federation, formed at different points in time, with Canada's original federal constitution enacted in the nineteenth century and Nigeria's in the twentieth. Both countries are federations characterized by constitutional divisions of power between at least two orders of government and the federal principle of shared rule and self-rule (Elazar 1987). In addition, Canada and Nigeria are not only federations, but are also archetypal examples of multinational federations, among whose distinctive features are tension and

conflict. Though intergovernmental relations in all federations generally involve some degree of conflict, multinational federations are characterized by "intractable political conflicts" (Pinder 2007, 1) stemming from "competing national visions" (Pinder 2007, 1) and "a particularly enhanced sensitivity" by the component states or ethnic/linguistic groups regarding their sovereignty (Pinder 2007, 6). Such sensitivity to the protection and promotion of autonomy or cultural diversity increases the risk of ethnic and/or regional divisions, and the emergence of factionalized elites, which in turn increases the risk of instability within the polity.

In addition to both being multinational federations, Canada and Nigeria are also both endowed with various natural resources, especially oil, which is the focus of this study. The availability of oil resources in these two federations further increases the potential for conflict. These resources have come to play a central role in the economies of both countries, which make them highly coveted commodities for different regional and group interests. Because these resources are unevenly distributed, redistribution of resource revenues is essential, but redistribution carries with it the potential of precipitating conflict. Moreover, the oil economy is also fraught with peculiar vulnerabilities, such as bust-and boom circles in international prices, which can affect oil revenues and, by extension, the relationship between orders of governments on one hand and between resource communities and governments on the other. The political structure and ethnic makeup of the multinational federation, and the presence of and conflict over oil, provide common grounds between Canada and Nigeria, which justify their selection as the cases to be comparatively studied in this project.

However, in spite of their similarities, Canada and Nigeria represent considerable variations in both the independent and dependent factors of this study, in that the particular constitutional-institutional design of federalism and the specific expression of conflict dynamics vary significantly. First, though both countries are federations, the variant of federalism each has adopted is different, particularly regarding the constitutional allocation of power over oil: Canada is largely a decentralized federation, where Nigeria is a centralized one. Second, both federations have different democratic experiences, with Nigeria having experienced authoritarian reversals of its democratic development while Canada has not.

Third, while Canada[14] and Nigeria[15] are multinational countries whose territorial political organizations are underpinned by what Livingston would call 'federal society,' they vary in the extent of the diversity or cleavage that each society accommodates, in particular, the nature of ethnic configuration around

[14] As a multinational society, Canada is composed of three main communities: francophone, anglophone, and aboriginal, with the francophone and anglophone communities representing political units based on constitutionally divided powers. However, amongst these two communities, it is only in Quebec, in which territorial boundaries largely correspond with the boundaries of the francophone linguistic community, that a "strong social basis for federalism" could be said to exist (Thorlakson 2000, 132). In English Canada, the salient identities and interests are more of a regional-economic nature. This seeming absence of an ethnic basis in Canadian federalism has led to discussion of federalism largely in terms of territorial instead of ethnic identities. Hence, conflicts in Canadian politics outside Quebec have revolved around regional political-economic interests instead of ethnic differences (Brodie 1997), with regionalism often articulated through regional political parties in national politics, and more importantly "by provincial governments using the institutional resources provided by federalism" (Simeon 2004, 97). Canada also has aboriginal populations, as well as a polyethnicity arising "from individual and familial immigration" (Kymlicka 1995, 10). However, although the Canadian federal government has since 1995 recognized the "inherent right of aboriginal self-government" (Aboriginal Affairs and Northern Development Canada 1995), such 'self-government' is not constitutionally guaranteed self-rule, which is the hallmark of federalism. Hence, even though aboriginal identities are mobilized (Colino and Moreno 2010), aboriginal governments in the territories under the federal government can only exercise delegated powers.

[15] Nigeria, by contrast, is a multi-ethnic, multilingual, and multi-religious federation consisting of 374 ethnic groups (Otite 1990), over 400 languages (Crozier and Blanch 1992; cited in Oluwabamide 2013), three regionally dominant ethnic groups, hundreds of minority groups, and almost equal numbers of Muslims and Christians. Unlike in Canada, whose Aboriginal peoples were displaced and were not part of the settler groups of British and French immigrants that formed the Canadian Confederation in 1867, the ethnic and linguistic groups that existed before Nigeria's amalgamation in 1914 also negotiated Nigeria's federal structure in 1956, and their territories later formed the constituent units of the new federation. Today, even after the series of creations of states, which led to the multiplication of states from the original 3 regions at independence in 1960 to the present 36 states, constituent units "are designed mainly along ethnic or linguistic lines, although there may be one lingua franca or major ethnic group in several units" (Colino and Moreno 2010, 381; Ejobowah 2010). Heightening this salience of ethnic, religious, and regional identities is the ambiguity that Osaghae (2005) points out: though the Nigerian constitution recognizes states and local governments as the legal constituent units of Nigeria's federation, the same constitution also confers some legitimacy on ethnic-linguistic identities as building blocks of the federation. For example, the constitutional requirement for the constituent units' participation in federal government institutions, known in Nigeria as the 'federal character principle,' at once takes states, ethnic groups, religious groups, geopolitical zones, and regions as simultaneous bases of the federal character that should be represented. Consequently, ethnicity (interfacing sometimes with religion and regionalism) has thus become the most crucial societal mode of identification for political mobilization and interest aggregations, sometimes displacing the territorial superstructure that it underlines (Jinadu 2002; Osaghae 2005; Osaghae and Suberu 2005). Against this background, this study demonstrates that social cleavage is a salient factor in political mobilization over oil in both Canada and Nigeria. However, the degrees of diversity further affects the extent of tension in intergovernmental relationships, and this in turn contributes to the shaping of conflict over oil in each federation. As stated previously, although the primary focus of this study is on conflict between federal and state/provincial governments, it is also attentive to the effects of interactions between federal institutions, social conditions, and political practices on intergovernmental conflict dynamics, and whether and how social diversities influence institutional conflict.

oil, and the degree of dependence on oil, with Nigeria being more heavily dependent on oil than Canada.[16] Fourth, each country's experience of oil-related conflict is different, with each case demonstrating varying conflict dynamics, specifically the mechanism of conflict mobilization over time.

A comparative historical analysis of Canada and Nigeria will produce a meaningful contrast of their respective situations, along with a deeper examination of the challenges and opportunities posed by the institutional framework of federalism for these two countries as they manage their oil resources. It will also identify the "unique amalgam of properties" (Gamkhar and Vickers 2010, 351) or specific interactions of explanatory factors in each federation, and will examine how federalism interacts with these properties and variables to influence the particular expression of conflict. The comparative historical analysis will foster a better and more nuanced understanding of the complex *processes* by which conflicts are generated in the interaction between federalism and oil governance in multinational federations, and the salient factors in the regulation of conflict.

My justification for choosing Canada and Nigeria as my case studies is as follows: since the focus of this study is the dynamics of conflict over oil in multinational federations, I opted to compare two multinational, oil-rich federations with varying federal institutional arrangements and differences in conflict over oil. To bring out the effect of differences in historical development identified through the use of the theoretical framework of historical institutionalism, I selected two federations based on the degree of maturity of their federal experiments (Watts 2008, 2013). According to Watts (2008, 2013), based on this criterion, federations can be grouped into two broad types: 'mature' and 'emergent' federations. Mature federations are those "that have operated effectively for at least half a century or more" with a demonstrable history of "prolonged period of federal stability" (Watts 2013, 26). These include the United States, Switzerland, Canada, Australia, Austria, Germany, and India. In contrast, emergent federations are those "created during the past 50 years and [which] are still in the process of establishing their equilibrium" (Watts 2013, 26). In addition, these federations are either centralized or "highly centralized quasi-federations" in comparison to the mature ones and "many of them have been prone to instability...or have even experienced frequent periods of military rule" as Nigeria's experience demonstrates (Watts 2013, 26).[17]

[16] For instance, the World Bank data for the year 2013 of 214 national economies based on oil rents, defined as "the difference between the value of crude oil production at world prices and total costs of production" and excluding gas rents, ranked Canada as 44th, while Nigeria was ranked 25th, with respective values of 4.0 and 13.6 (World Bank 2015). Conversely, Anderson (2007) has described Nigeria as the "most oil-dependent" federation in the world, with centrally collected and redistributed oil revenues accounting for 75 percent of consolidated government budgetary revenues (World Bank 2015).

[17] Other examples in addition to Nigeria include Argentina, Belgium, Bosnia-Herzegovina, Brazil, Comoros, Ethiopia, Mexico, Pakistan, Malaysia, Micronesia, Nepal, Russia, St. Kitts and Nevis, South Africa, and Spain.

From the above classifications of mature and emergent federations, I chose two federations, both of which are oil-rich and have a multinational population, but whose federal institutional arrangements, experiences with and managements of conflicts over oil, and democratic experiences are different. Of the 25 federations in the world today, there are 3 mature multinational federations: Switzerland, Canada, and India. However, India's democratic stability can be questioned due to Prime Minister Indira Gandhi's imposition of a 21-month nationwide emergency rule.[18] Of these three, only Canada and India are oil-rich; Switzerland "has no domestic oil production, and it is entirely dependent upon crude oil and oil products imports" (IEA 2012). This leaves Canada and India as potential subjects of study. Though these two countries have both experienced low conflict intensity over oil, they differ in their constitutional allocations of power over ownership and control of onshore oil resources. In India, control of resources and revenues rests with the central government, even though these resources and revenues are constitutionally owned by the constituent units (Noronha and Srivastava 2012), while in Canada, resources and revenues are controlled by the provinces in both principle and practice (Ploudre 2012). Because mature federations are generally more centralized than emergent federations, we will lose the analytical leverage of variation if we choose a centralized federation to represent the federations in the mature category, as the probability of selecting a decentralized oil-rich multinational federation from the emergent group is very low. Consequently, Canada, with its decentralized authority pattern over oil, was chosen as an example from the broad group of mature federations. To contrast this choice, I then selected a centralized, oil-rich multinational federation from the class of emergent federations. Of the 18 federations described as emergent, only eight—Belgium, Bosnia-Herzegovina, Ethiopia, Nigeria, Pakistan, Malaysia, Russia, South Africa, and Spain—are multinational (Ross 2007; Watts 2013). Of these, only Nigeria, Russia, and Pakistan produce oil. All of these countries are centralized federations; however, authority over oil is more decentralized in Russia than in Nigeria. In the Nigerian states, the federal government collects oil royalties, which are then shared with the states; the states depend on these central transfers for over 75% of their revenues (Ahmad and Mottu 2003, 231; World Bank 2013). By contrast, in Russia, natural resource taxes, including petroleum production royalties, charges for use of minerals, and exploration fees, are mainly collected by subnational governments (Ahmad and Mottu 2003, 232). Against this background, Russia appears to have more decentralized arrangements over oil than Nigeria; thus, Nigeria displays more variation in the independent variable of centralized authority, when compared with Canada's decentralized authority, than Russia. On the other hand, although Pakistan is a centralized federation, oil resources are negligible (Ahmed 2012), so that the effect of oil on conflict is virtually insignificant. Having narrowed down the choices to Canada and Nigeria, I found that these two countries can also be contrasted in terms of experience with democracy. This also proved

[18] *The Hindu* of June 26, 2015 describes the emergency as "The Dark Age of Indian democracy."

to be a valid contrast criterion because, as noted in Chapter 2, Canada is an established democracy while that of Nigeria is still relatively new. With this in mind, Nigeria served as an ideal contrast to Canada.

Another methodological requirement for comparative study is that the cases chosen for comparison should be commensurable, though, according to Pickvance (2001), commensurable cases are not necessarily identical. Rather, commensurability implies that that the cases can "be placed at the same or different point on a dimension of theoretical interest" or examined through the same conceptual lens (Pickvance 2001, 17). This study attempts to avoid the problem of incommensurability by ensuring that the concept of federalism is consistently applied with the same meaning throughout both cases.

Finally, Ragin (1992) urges comparative researchers to "seek to limit the uniqueness and specificity of the empirical world" (219) which they compare. To achieve this goal, the same sets of theoretically relevant explanatory factors (discussed in Chapter 2) are applied across both cases. Using these explanatory factors, I will systematically examine the two cases to explore how similarities and variations in the explanatory factors translate into similarities and variations in the outcome or dependent variable of conflict dynamics over oil.

1.5.2. Identifying the Outcome of Interest: Conflict Dynamics

In this study, conflict over oil is the dependent variable. The term *conflict* here refers specifically to *conflict dynamics,* the ebbs and flows, continuities and changes embedded within ostensibly reinforcing and self-preserving conflict patterns. In other words, the dynamic character of conflict is used here to denote the trajectories of conflict emergence, escalation and de-escalation within the context of historical developments involving processes of continuity and change. By examining oil conflict as dynamic development over a long timespan, we can gain a better understanding of how and why some conflicts become intractable, recurring, or even violent, while others recede in intensity and stay within the boundaries of non-violence.

Conflict specialist John Lederach (2003) uses the metaphor of a 'sea' that is "constantly moving, fluid, and dynamic" to describe the pattern and character of conflict and conflict transformation. Lederach's metaphor emphasizes the view of conflict, not as episodic events that occur in isolation, but as interactions or relational processes that, though they may exhibit stable patterns at particular points in time, are not static or frozen but are in a more-or-less ongoing state of flux. From a perspective of historical institutionalism, such as that of Paul Pierson (2004), the dynamic conception of conflict entails seeing these conflicts as 'moving pictures' rather than as 'snapshots,' drawing our attention to the influence of path dependence, especially the timing and sequence of events and critical juncture on conflict dynamics.

Though conflict over oil in federations should not be conflated with the centralization and decentralization dynamics in federations, the line between these concepts is indeed blurred. In this project, I consider conflict dynamics as a core aspect of centralization and decentralization dynamics, and centralization or decentralization as the observable indicator of conflict dynamics. Benz (2013) noted that "as a constitutional form of a state, federalism is determined to balance centralization and decentralization of powers as well as self-rule and shared rule" (70). William Riker and Ronald Schaps (1987) consider conflict, or what they call 'disharmony,' as an essential characteristic or hallmark of federal states relations.[19] The mutually constitutve interaction between conflict and centralization and decentralization arrangements arises from the specific institutional distribution of power in federations, which structures conflict; at the same time, the federal balance emerging from this very distribution of power is also affected by conflict. In addition, as stated earlier, federalism itself has been touted as a mechanism for conflict resolution (McGarry 2002), even though the particular design may exacerbate the conflict it was meant to resolve. Thus, in addition to the inbuilt conflict in federations, arising from constitutional divisions of power and their underpinning ideas, the process of resolving this conflict also affects federal balance by reinforcing or undermining particular arrangements. With this in mind, oil conflict dynamics in Canada and Nigeria are essentially conflicts over (de)centralization dynamics or federal balances regarding oil. In turn, by further examining the conflict process itself as a dynamic development that unfolds over a long time span, this study potentially remedies the theoretical limitations inherent in most works on comparative federalism that tend to characterize the relationship between federalism and outcomes as constant over time while ignoring the role of change, rather than just continuity, on these decisions and outcomes (Broschek 2012a, 2012b; Benz 2013; Benz and Broschek 2013a, 2013b).

This study's emphasis on conflict dynamics aligns with the renewed attention and unequivocal impotance being given to the concepts of (de)centralization dynamics (Lecours 2017; Kaiser and Vogel 2017) and federal dynamics (Benz and Broschek 2013) in recent literature on comparative federalism. As forcefully developed by Arthur Benz and Jörg Broschek, attentiveness to federal dynamics or the "time-dependent behaviour of federal systems" (2013, 2), helps to foster a persuasive analysis of federalis. In turn, attention to the dynamics of federal institutions better accounts for the contingent alignments and unintended feedback effects that lead to diverging federal architectures and their subsequent trajectories, including the specific pattern of adjustments made as the different variants of federal architectures confront "pressures for change caused by social developments or internal tensions" (Benz

[19] Indeed, Riker and Schaps consider the bickering between federal and state governments healthy for the operation of federations. According to them, "in order to maintain the integrity of the constituent states in a federal system, they must be able to dispute, sometimes succesfully, with the central government. If the states cannot, they may well become no more than local subdivision in a decentralized but unitary system" (1987, 73).

and Broschek 2013, 2). As Wolfgang Streeck (2009, 3) noted, focusing on the dynamic properties of an institutionalized social order helps us account for some of the missing links in existing accounts of institutional stability and change by identifying "why specific institutions in a specific place and time happen to be structured the way they are and evolve the way they do; and what has kept them from assuming different properties or changing in different ways and directions."

Also, *the causal mechanisms*[20] *through which conflict generation and regulation take place* is central to my concept of conflict dynamics. This thesis is aware of the limits of institutional design (Pierson 2000), particularly the limits of formal federal structure or constitutional design (Erk 2012). As such, it explores the complex processes by which federal constitutional designs over oil, whether centralization or decentralization, and the underlying ideas of self-rule and shared rule interact with economic, social, and political structures in the broader polity to shape oil conflict dynamics over time.

1.5.3. Data Collection Method

a. Primary Data Collection Process

This study uses both primary and secondary data collection methods. Primary data were sourced from official documents/records, such as letters, annual reports, conference minutes or communiqués, debates in parliaments, memoirs of politicians, and interviews. Interviews were not the major source of data for this study; the primary data were derived from other primary and secondary sources. I set out initially to carry out intensive interviews with serving or retired elected politicians, particularly governors and premiers, representing the two territorial orders of government in both Canada and Nigeria. However, I was unable to meet this goal due to difficulty interviewing politicians in Nigeria, and therefore could not carry out comparative interviews with politicians in Canada either.

Fortunately for this study, I was able to use primary documents such as memoirs of some of the politicians whose perspectives are important to understanding conflict dynamics in both Canada and Nigeria. These texts, coupled with the rich historical records sourced from archives in both Canada and Nigeria and those accessed via the University of Alberta Library, were invaluable in helping me achieve the kind of in-depth study that I would otherwise have attained from interviewing members of the political elite. The official documents revealed the roles these elites played in setting up and/or enforcing constitutional rules regarding oil – particularly the division of powers – and their cooperative acts in

[20] By 'causal mechanism,' I mean the *contingent* processes, pathways, or sequence of events by which an outcome is produced. It does not refer to an explanation focused on the discovery of deterministic laws or regularities, but to the various patterns of interaction between the territorial distribution of power and other relevant factors in the 'federal society' (Livingston 1956). For more on the different usages of 'causal mechanism,' see Gerring (2008).

establishing these rules. The documents also illuminated the discourses employed as the elites attempted to expand their spheres of influence over the ownership and control of oil resources and revenue sharing. All of this is important to understand and explain the dynamics and management of oil conflicts. Historical records such as official speeches including Speeches from the Throne, Hansard of parliamentary debates/proceedings, constitutional conference proceedings and resolutions, and First Ministers' meetings allowed me to identify the perceptions and visions of federalism, intergovernmental relations, and the conflicts emerging from clashing perceptions and visions. I was also able to enumerate the specific constraints, pressures, and incentives the political elites face as they respond to the challenges of natural resource management, and how factors such as federal institutional design, ideas about federalism and federal community, and other economic, social, and political structural factors or conditions interact to produce various outcomes in conflict, and conflict management, in Canada and Nigeria.

b. Secondary Data Sources

This project also uses secondary data, as is common in social science research projects dealing with process tracing of causal mechanisms. The secondary data sources used in this project include textbooks, journal articles, newspapers/magazines, discussions with scholars, and biographies. These documents were sourced from the Internet, archives, federal and provincial libraries, university libraries, and online publications of research institutions and think tanks in both Canada and Nigeria. In Canada, my research benefited from a 2016 webinar on Canada's Equalization Policy in Comparative Perspective organized by the Montreal-based Institute for Research on Public Policy (IRPP), which featured Daniel Beland and André Lecours as speakers. In Nigeria, my project also benefited from informal discussions with other scholars on federalism and intergovernmental relations.

1.5.4. Data Analysis

This study relies on the analytical framework of historical institutionalism, focusing particularly on the five key basic features of the framework, as highlighted in chapter 2: focus on both formal and informal rules; the importance of institutional context; institutions as filters or mediators of interests; institutions as embodiments of ideas; and institutional development and change as path-dependent, emphasizing the roles of initial conditions, timing/sequence, and critical junctures. The historical institutionalist framework will be complemented with process tracing, which is central to the case study method. Process tracing, according to Goldstone (2003, 47), "consists of analyzing a case into a sequence (or several concatenating sequences) of events and showing how those events are plausibly linked given the interests and situations faced by groups or individual actors." It "involves an intensive analysis of the development of a sequence of events over time" (Levy 2008, 6) and is thus particularly suited to uncovering "the analysis of evidence on processes, sequences, and conjunctures of events within a case

for the purposes of either developing or testing hypotheses about causal mechanisms that might causally explain the case" (Bennett and Checkel 2012, 10). Its unique advantage, according to George and Bennett (2005, 215), lies in the fact that in addition to generating "numerous observations within a case," it also links the "observations…in particular ways to constitute an explanation of the case." For the purposes of this project, process tracing will help to delineate the specific design of each federation's formal institutions, as well as underlying factors and incentives unique to each federation, and the causal mechanisms or pathways in which these interact to produce divergent outcomes in the relationship between federalism and conflict over oil.

Combining primary and secondary data sources will enable a process tracing of the main question of this study: "How does federalism affect the generation and management of conflict related to ownership and control of oil resources, and sharing of oil revenues in Canada and Nigeria?" Drawing from historical institutionalism, the study answers this question using the interaction of federal institutional rule with the configuration of economic, social and political structures in the broader polity within which federalism is embedded. The dissertation demonstrates that conflicts over oil are ultimately generated by the interaction of this constellation of institutions operating within specific temporal dynamics, including federal origin and institutional choice made at that formative moment, sequence and timing of federal rule creation vis-à-vis the development of the oil industry, contingency events, critical junctures and path dependent trajectories. This project pays particular attention to the processes of change over time. The timing of the combination of these factors may be significant, for example. In addition, choices or decisions made at critical junctures can affect dominant patterns of distribution of oil resources and revenues. This in turn shapes the authority relationship between territorial entities, to generate distinct patterns of conflict or cooperation. Political practices such as norms of bargaining may also be reinforced or weakened by sequential institutional choices or at critical historical moments.

The empirical analysis in this study takes as its general starting points the formations of the federations under discussion: 1867 in Canada and 1954 in Nigeria. The historical origins of these federations are important critical points for this study. Historical institutionalists place particular importance on the historical context of a critical juncture in shaping the outcome of that juncture itself. Similarly, many important events or processes may have occurred or begun before the time considered a critical juncture (Slater and Simmons 2010, 887). Therefore, this study also takes these 'antecedent conditions' into consideration, especially what Slater and Simmons (2010) call 'critical antecedents' that interact with critical junctures and thus influence actions taken at historical junctures. The project places particular emphasis on the ways in which these processes shape the allocation of proprietary and legislative rights over natural resources as well as the sharing of oil revenues.

The discovery of oil in Canada and Nigeria is another critical juncture with long-term consequences. The post-World War II period marked the beginning of large discoveries of crude oil in both countries: the

modern history of the Canadian oil industry began in 1947 with the discovery of commercially viable oil in Leduc, Alberta, by Imperial Oil, while Nigeria's pivotal moment came in 1956 with the discovery of oil in Olibiri, Bayelsa state, by Shell-BP. These developments transformed the economies of Alberta (and, later, other provinces in Canada with significant oil resources) and Nigeria from being strongly reliant on primary agricultural resources to being based on oil exports. Over time, oil gradually became a salient political issue and a key component of intergovernmental relations, with the attendant potential to generate conflicts. These conflicts may not only be between the federal and provincial/state governments, but also between provincial/state governments themselves (especially between oil-producing and non-oil- producing entities), and between oil-producing communities and either or both levels of government, even though the latter category of conflict is not the primary focus of this study.

The primary subject of my analysis is the constitutional allocation of powers over oil resource ownership and sharing of revenues. I examine the rules governing oil ownership and control as well as revenue sharing, which prior to the discovery of oil had been intended for the management of natural resources in general, and the role of timing or sequence in the discovery of oil relative to the establishment of Canada and Nigeria as federations. I further examine how and why these rules applied differently to different territorial units in these federations based on their origin, especially the oil-producing units that were not among the original founding units of each federation, and the distinctive patterns and outcomes of the struggles of oil-producing provinces/states to overturn initial disadvantages regarding resources found in their lands. I trace the patterns of fiscal authority relating to oil revenues, their allocation and transfer, such as equalization transfers in Canada or the Federation Account in Nigeria, and the criteria governing these arrangements. Changes or continuities in these transfer patterns and arrangements are also a focus of this study, particularly the questions of whether and how these changes forced further changes in intergovernmental competition/conflict or cooperation, and whether and how particular historical junctures introduced new patterns of conflict or changed conflict dynamics. The study also traces the changes in the ways natural resources have been treated in equalization transfers, especially from the establishment of, and contentions over, Nigeria's first formula-driven equalization program in 1957, focusing on the debate over whether, and to what extent, to include mineral resource revenues in the equalization program. This study also looks at the ways in which oil revenues have been treated and shared, especially following the recommendations of the Raisman Commission of 1958, and how these recommendations affected intergovernmental relations concerning the sharing of oil revenues. The Raisman Commission led to the creation, for the first time, of a distributable pool account (DPA) into which revenues, including those from mining and mineral royalties, were deposited and shared between the regional governments. Over time, changes have been made to the derivation formula that allocates revenues to states in which oil is produced. This study examines those changes and their effects on patterns of conflict, such as conflict between oil-producing states and the federal government on the one hand, and between oil-producing and non-oil-producing states on the other.

As noted above, historical institutionalism is sensitive to interactions between institutions, interests, and ideas, institutional contexts, and long-term historical development. In this sense, federal institutions mediate struggles over material interests, including political power and economic resources such as oil. Building on these conceptual considerations, I will give attention to the formal institutional rules of federal arrangement which allocates jurisdictional authority over oil, emphasising what Lecours (2000, 514) calls the "institutional patterns of power distribution and structure," especially the asymmetries inherent in these patterns of power distribution, and how conflict over these rules shape or structure conflict dynamics over oil. I will also examine the socioeconomic and political structures within which federal institutions operate, and which partly define the interests, incentives, and strategies of [federal] institutional actors (Thelen and Steinmo 1992, 28), highlighting the processes by which interests, demands and pressures from these exogenous structures interact with and are shaped by federal institutional rules to produce distinct conflict patterns.

A specific focus of this study is the constitutional rule allocating ownership of on-shore and offshore resources vis-à-vis the basis of the proprietary claims of oil-producing states/provinces on those resources. Among the important factors here are the perceptions of oil-producing states/provinces concerning these resources, the discourses and narratives that are invoked to justify these claims and rally public support, actions taken to exert pressures on the federal government, the responses of the federal government to these claims, and reactions in non-oil-producing states/provinces. While not the main focus of this study, the indirect influences of non-territorial groups or non-state actors on conflict dynamics are also considered in this investigation, with particular attention paid to how these influences were ultimately shaped by institutions.

Recent analyses of federalism via historical institutionalism have begun to make the role of ideas explicit in order to provide a convincing explanation of institutional change and continuity (Béland & and de Chantal 2004; Brosheck 2012b; Beland 2005; Blyth 2003; Lecours 2005; Schmidt 2010). This awareness emanates from the fact that, while interests undoubtedly exert great influence on political-economic outcomes, they may not be the "ultimate determinant of political outcomes" (Rodrik 2014, 189). Rather, in some circumstances, ideas may shape or even "trump interests" (Rodrik 2014, 189). Ideas as "legitimatory frameworks" also serves to either "justify or challenge" not just the "[re]distributional consequences" of federal arrangement (Broschek 2010, 2), but the structural arrangement upon which such material outcomes are based. With this insight in mind, this study examines the interaction of ideas, particularly those concerning federalism and political community, with changing economic, social, and political circumstances to influence conflicts over oil management. Some examples of these divergent "federal 'visions'" (Broschek 2010, 2) are the perception of the proper balance between powers/authorities, or the purposes and roles of the different orders of government.

Ideas, according to Schmidt (2010, 3), encompass both substantive content and interactive processes, which involve consideration of "ideas about 'what is and what ought to be'" and the communicative or discursive processes through which ideas are exchanged and conveyed. A central discursive strategy by which ideas are represented is framing (Schmidt 2010), which refers to the process by which a situation is defined, assigned meaning, and interpreted (Snow and Benford 1988). Béland and de Chantal (2004) argue that such attention to ideas invariably forces us to focus on the role of frames and how these frames interact with federal institutions and strategies of political actors.

Frames are often subjective definitions of conflict situations that parties to the conflict construct by highlighting and some features of reality while omitting or downplaying others (Kahneman and Tversky 1984; Entman 1993). These ideational frames are strategically and deliberately constructed by elites to rally support from other elites and the public, and justify or legitimize their actions or policies (Snow et al. 1986; Beland and de Chantal 2004). Therefore, the ultimate success of frames depends on how those frames resonate with popular narratives, values, perceptions, and grievances.

Because conflict is an interactive process that is articulated and expressed through communication (Putnam 2009; Northouse 2012), it requires frames. Thus, Putnam and Shoemaker (2007, 168) noted that "framing a situation as a conflict highlights incompatibilities, disagreements, or oppositional tensions between individuals, groups, and institution." Against this background, I will highlight the frames and discursive terms of the different ideas and positions taken by elites representing territorial orders of government concerning oil. Examples include the discursive terms or ideological frames asserting proprietary and legislative rights over onshore and offshore oil resources by both federal and oil-rich states, and grievances over the distribution of oil revenues from the Federation Account (in Nigeria) or the share of oil in calculating the equalization program (in Canada).

Finally, given its emphasis on long-term historical processes and development, this study addresses the roles of initial conditions or choices and past policy decisions, whether driven by embedded interests and ideational frames, or emerging from contingent or unexpected historical circumstances. Elite pacts during the formation of the federations of Canada and Nigeria, the timing of allocation of resource ownership in relation to the discovery of those resources, and critical junctures in each country's history further help to reinforce, reproduce, and/or change existing patterns of constitutional ruling governing the allocation of power and authority over oil, and the influences of these developments and patterns on oil-related conflicts. These historical events and past choices/policies interact with subsequent ones in ways that become 'locked in' and difficult to reverse once a pattern has been established (Pierson 2000). Examining path dependence will reveal the ways that historical factors and underlying socioeconomic conditions interact with existing federal institutional arrangements to shape conflict dynamics over oil in Canada and Nigeria. Alongside the issue of institutional resistance to change (Thelen and Steinmo 1992), scholars have also argued that a satisfactory account of the self-reinforcing processes

of institutional evolution and development must also be aware of the mechanisms and impacts of institutional change over time. Consequently, I also examine patterns of change, either arising from exogenous shocks such as critical junctures and punctuated equilibrium (Krasner 1984) or from incremental or gradual institutional friction over interests and ideas (Mahoney and Thelen 2010; Lieberman 2002; Schmidt 2010), and the interactional effects of these patterns on conflict over oil.

1.6. Significance of Study

As stated previously, an important justification for this study is that it serves as an important corrective to the dominant bias present in the literature on conflicts in multinational federations for conflicts between ethnic groups. This project also carries out a theoretically guided comparative research on the link between federalism and oil conflict. Although there have been many case-based descriptive studies on this link, it has not benefitted much from systematic comparative evidence. The majority of the studies that have explicitly examined oil through the lens of federalism have been single-country case studies. Even *Oil and Gas in Federal Systems*, the landmark 12-country empirical case review with a comparative summary by the editor (Anderson 2012a) is largely not theory-driven systematic comparative research.

This lacuna, which is noticeable in the field of comparative federalism, is also felt in the broader scholarly literature on the relationship between oil resource abundance and conflict, a central component of the "resource curse" (Auty 1993) or what Terry Lynn Karl (1997) calls the "paradox of plenty." These terms refer to the paradox that countries rich in natural resources, especially in the developing world, often experience poor political, social, and/or economic conditions. The role of oil in triggering internecine conflict has been explored in scholarly literature (Auty 2008; Fearon and Laitin 2003; Collier and Hoeffler 2004; Humphreys 2005; Robinson, Torvik, and Verdier 2006; Ross 2008, 2012). Very few commodities other than crude oil have generated conflicts, especially since the end of the Second World War. As Michael Ross (2008, 2) notes, while the number of conflicts has decreased in most parts of the world, "there has been no drop in the number of wars in countries that produce oil." He also explains that: "since the early 1990s, oil-producing countries have been about 50 percent more likely than other countries to have civil wars" (Ross 2012, 145).

In recent times, however, there is an emerging consensus that, even though natural resources have powerful effects on conflict, this link is neither an automatic one nor a fait accompli, as the differing cases of Canada, which has experienced relatively peaceful conflict over oil, and Nigeria, which has experienced a remarkable degree of oil-related violence, have shown. In other words, natural resources do not in and of themselves cause conflict (Luong and Weinthal 2010). Rather, the effect of natural resources on the resource curse, such as conflict over oil, is believed to be dependent on the quality of institutions (Mehlum, Moene, and Torvik 2006; Morrison 2010). Institutional quality is therefore held up

as the explanation for the variation in outcome in natural resource-rich countries. Especially in weak institutional settings, it is argued that resource abundance exacerbates governance problems, leading to poor economic, social, and political outcomes, such as armed conflict (Auty 2008; Collier and Hoefler 2004). The weakness (or absence) of institutions is viewed in this perspective as both the cause and consequence of the resource curse (see Luong and Weinthal 2010). Yet, while the role of institutions has been brought to the fore in recent comparative institutional analyses of oil or the resource curse, explicit comparative empirical studies on the role of federal institutions and their effects on conflict, particularly oil-related conflicts are scarce. Instead, the overwhelming emphases have been on quality of institutions measured as property rights, voice and accountability, absence of corruption, law and order, political stability, quality of bureaucracy, political rights, and government effectiveness (Isham et al. 2005).

Alongside the resource curse theory, the theory of rentier states (Mahdavy 1970) is another prevalent theory on the outcomes of natural resource management. This theory links natural resources, especially 'point resources' such as oil and minerals, to violent political conflict and destabilizing social tension. One mechanism by which this takes place is the "rentier effect" (Gelb 2010) that distorts the accountability link between states and citizens when states embark on public spending without resorting to taxes from the citizens. The rentier state also has a debilitating effect on political institutions due to its non-reliance on bureaucratic revenue collection systems such as income taxation (Beblawi 1989). In addition, the zero-sum struggles that perennially attend the collection of oil rents by factions of the elites, and the attendant misrule by ruling elites, fuel corruption and undermine institutions, weakening the ability of these institutions to prevent such resource-related conflicts from assuming nation-threatening dimensions (Herbst 2000). However, as with the literature on the resource curse, the literature on the rentier state is also fraught with shortcomings. First, the role of federal institutions is often ignored in most of these analyses. Second, the predominant association made between the rentier state and conflict focuses more on civil conflicts and wars, with little attention to the link between the rentier state and different varieties of conflict and their dynamics over time. Third, the rentier state literature upholds a deterministic view of natural resource wealth that wrongfully assumes that "conflict in mineral-dominant economies…exists prior to politics" or outside political bargaining (DiJohn 2002, 12-13). Finally, like most other studies of the resource curse (Haber and Menaldo 2011; Obi 2014), the largely econometric literature on the rentier state and its conflict models are not historically grounded, and hence do not incorporate or utilize important comparative historical analytical tools such as "contingencies, sequences of action and interactions of political action" (DiJohn 2002, 13) such a those structured through the federal institutional arena. As a consequence, most of these extant projects "cannot illuminate historically specific processes of conflict/cleavages in a given society" (DiJohn 2002, 13).

It is beyond the scope of this study to comprehensively examine the debates over the resource curse and the rentier state. Rather, this project is an attempt to contribute to a better understanding of the relationship between oil and conflict from the perspective of federal institutions by highlighting some of the possible mechanisms by which the resource curse and rentierism can interact with federal institutional arrangements to generate distinctive conflict dynamics. By expanding the available theoretical knowledge of the oil-conflict nexus to the area of comparative federalism, I will explore the role of institutions in the generation, perpetuation, and resolution of resource conflicts over time. These conflict trajectories will be examined with an emphasis on their dynamic interplay and interactions, examining the processes by which federalism, as a generic yet contextually specific phenomenon, responds to oil-related challenges of ownership and control of offshore resource as well as intergovernmental fiscal transfers in Canada and Nigeria.

The study will make an important contribution to current knowledge of comparative federalism by providing a better understanding of conflicts and conflict management. It will be especially relevant to comparative knowledge on the role of federalism in conflict in general, and conflicts bordering on oil in particular. To date, opinion on this subject has remained inconclusive, with some scholars upholding federalism as a conflict regulation institution, while others regard it as more of a curse that could potentially lead to the disintegration of federal states (Bakke and Wibbels, 2006). This study contributes to this understanding.

1.7. The Structure of the Dissertation

Chapter 2 provides a literature review elaborating on and justifying the research question using potential explanatory variables from the literature on federalism and conflict. Based on these explanatory variables, this chapter also highlights the potential causal mechanisms that could be at play to produce variations in federal institutions in Canada and Nigeria, and which could explain their divergent conflict dynamics over oil. This chapter also highlights explanatory factors for the study, detailing the potential ways in which these factors may interact to produce specific conflict outcomes in each of the federations.

Chapter 3 presents the analytical framework of historical institutionalism, and how this framework will be applied to the research question.

Chapters 4 and 5 present a within-case process tracing of the historical development of the **onshore** oil and gas sector in Canada and Nigeria, specifying the constitutional arrangements over the sector, regional structure of resources, and key demographics. These issues will be presented with emphasis on the interaction of federalism and oil resource ownership conflict and control and revenue sharing.

Chapter 6 provides a comparative discussion of intergovernmental fiscal relations in Canada and Nigeria, with particular attention to the role of institutional design and ideational framing in shaping conflict

outcomes. Emphasis will be placed on the incentives provided for conflict mobilization by federal institutional design and design of representative institutions, as well as social pressures relating to the nature of configuration of territorially based identities around oil as well as degree of dependence on oil.

Chapter 7 presents the Canadian and Nigerian cases of offshore oil conflict. It provides a history of the emergence of the offshore oil industry in these federations, contestations over offshore jurisdictional and proprietary rights and revenue sharing, and the political settlements that emerged following different degrees of littoral provincial/state governments' resistance to exclusive federal government rights over the offshore domain.

Chapter 8 provides an analysis, using the historical institutionalist framework and based on the information provided in the previous chapter, of conflict outcomes regarding offshore oil. The chapter highlights the way in which federalism as a generic institutional feature affects oil resolution of offshore conflict through political settlements emphasizing federal solidarity in both Canada and Nigeria. It also demonstrates how the distinctive federal constitutional rule over oil, its interaction with agency, and the specific historical paths of institutional and oil developments, including the role of temporality, particularly contingency, timing/sequencing, antecedent conditions, critical juncture, and path dependence, influenced divergent conflict dynamics in both federations.

Chapter 9 concludes the thesis by providing a detailed synthesis of the key empirical findings and arguments, the potential ways future studies on the topic can be conducted, and the empirical and theoretical contributions of the study.

CHAPTER 2

LITERATURE REVIEW

2.1. Introduction

This chapter provides a review elaborating on and justifying the research questions for the study. The first section provides a conceptual definition of federalism, highlighting the strengths and weaknesses of the major approaches, and adopting a working definition that provides a more nuanced understanding of the complexity of federalism from a synthesis of these approaches. The second section reviews the literature on the link between federalism and conflict; the third section delves into the debate on the federalism-democracy nexus; and the fourth section highlights the gaps identified in the literature and specifies the contribution that the study aims to make.

2.2.1. Conceptualizing Federalism and Federations

This study is structured around the concepts of federalism and federations. In defining federalism, Watts (2008, 8) has distinguished between 'federalism', 'federal political systems' and 'federations.' Federalism is principle of shared rule and regional self-rule of multi-tiered government while a federal political system is "a broad category of political systems in which … there are two (or more) levels of government thus combining elements of shared-rule…and regional self-rule" (Watts 2008, 8). A federation is a particular kind of 'federal political system' in which there are at least two (or three) orders of governments, neither of which is constitutionally subordinate to the other, given that they all derive their sovereign powers from the constitution rather than from another level of government, and from citizens that directly elect representatives into each order of government and with which the order of governments relate directly (Watts 2008, 9). In order words, a federation is a distinct form of federal system in that the orders of government have powers that are guaranteed by the constitution, which cannot be unilaterally withdrawn by either order of government. This principle, known as non-centralization, is what distinguishes federations from decentralized unitary states and confederations (Blindenbacher and Watts 2003; Elazar 1987). Federalism and federations, therefore, are mutually reinforcing: while a federation is a federal state, federalism is a political ideology or an idea that underlines and informs a federation. The differences and diversities that federalisms embody are constitutionally-institutionally accommodated in a federation (Burgess 2012).[21]

[21] This study focuses on federations, specifically on Canada and Nigeria. However, the terms *federalism* and *federations* will be used interchangeably to refer to the same concept. Also, the constituent units are referred to as provinces in Canada and states in Nigeria, and both are used in this project to refer to the same concept, when they are not stated separately.

Besides the core distinctive feature of constitutional division of powers ensuring some areas of genuine autonomy for each governmental level, federations also share some institutional characteristics or structural features. These include a written constitution that is not unilaterally amendable by either order of government, an umpire such as Supreme Court to settle intergovernmental disputes, provision for referenda, or an upper house with special powers; and representation of constituent units and regional interests in federal policy-making institutions in the form of a second federal legislative chamber (Watts 2008, 9).

In spite of these broad similarities, however, federations differ on a wide array of issues. Some of these include the degree of centralization and decentralization, which broadly represents differences in how they allocate competence in the policy areas that are the core of this study, the degree of cultural or national diversity that they attempt to reconcile, the allocation of taxing powers and financial resources, the character and composition of their central institutions, and the processes and institutions for resolving conflicts and facilitating collaboration between interdependent governments (Blindenbacher and Watts 2003, 30).

Besides the aforementioned emphasis on constitutional law and the division of power between central (federal) and constituent governments, there are at least three other different but mutually reinforcing ways of thinking about federalism—how and why federal states are established and how they operate and evolve—that are relevant to this study. These are the society-centered approach, the state-centered approach (Thorlakson 2000), and the political process or practice approach.

2.2.1.1. The Society-Centered Approach

The key proponent of the society-centered approach is William Livingston, who argues in 'A Note on the Nature of Federalism' that the essence of federalism is to be found not in institutional or constitutional structure because these are "only the surface manifestations of the deeper federal quality of the society that lies beneath the surface"; rather, "the essence of federalism lies …. in the society itself", particularly in the "forces – economic, social, political, cultural – that have made the outward forms of federalism necessary" (Livingston 1952, 83-84). As Livingston emphasized:

> Differences of economic interest, religion, race, nationality, language, variations in size, separation by great distances, differences in historical background, previous existence as separate colonies or states, dissimilarity of social and political institutions—all these may produce a situation in which the particular interests and qualities of the segments of the larger community must be given recognition. (Livingston 1956, 4-5)

Livingston's thesis has been criticized for its lack of relevance for countries such as Germany, or provinces other than Quebec in Canada which do not have territorially delineated social cleavages as ethnicity and language (Thorlakson 2000; Smiley 1984). This criticism does not apply to the cases covered in this study,

which are both multinational states, even though the degree and nature of diversity and their impact on oil conflict differ. But even without such social basis for comparison, Livingston's concept of 'federal society' is still relevant to Canada and Nigeria, especially if recognition is given to the fact that the territorially-situated diversities or identities in federal societies that Livingston talked about are constituted not just of ethnic identities—such as religion, nationality, or language—but also differences in economic interests, differences in historical background, or dissimilarity of social and political institutions (Cameron 1999; Livingston 1956; Thorlakson 2000). The presence or absence of natural resources, such as oil, is an example of the raw materials of the other cleavages, which Livingston's concept of federal society is useful in characterizing. That said, a relevant criticism of Livingston's thesis is that it divested federalism of its legal-constitutional quality (Osaghae 1995) and hence practically turning every country in the world into a federal state (Birch 1966). Speaking on this shortcoming, Watts note that, "the view that federal institutions are merely the instrumentalities of federal societies, while an important corrective to purely legal and institutional analyses, is also too one-sided and oversimplifies the causal relationships" between constitutions and societies (Watts 2008, 21).

2.2.1.2. The State-Centered Approach

Alan Cairns is the foremost proponent of the state-centered approach (Thorlakson 2000). In "The Governments and Societies of Canadian Federalism," Cairns criticized Livingston's sociological approach and its key argument of "federal societies," arguing instead that the institutional perspective better accounts for the actions of Canadian provincial governments, because these governments operate the constitution through their elites, thereby creating and maintaining powerful independent provincial identities "that need not take the form of distinct culture, society, or nation as conventionally understood" (Cairns 1977, 699). Therefore, the most important factor for Cairns is the constitution, and in turn governments that activate the constitution: "federalism, at least in the Canadian case, is a function not of societies but of the constitution, and more importantly of the governments that work the constitution" (Cairns 1977, 698-99).

However, although Cairns added an important dimension, emphasizing the point that Riker (1964) made about the importance of the elites in initiating and maintaining a federation, his focus on institutional elites working through governments, diminishing the importance of societal factors, is problematic because, as Jonas Pontusson explained with regards to the issue of institutional change, "to understand the impetus for change, we need to analyze the process whereby 'extra-institutional' forces reshape the interests of powerful actors" (1995, 142). Such extra-institutional forces, as Ronald Watts notes, are more than the "formal constitutional and governmental structures" (Watts 1998, 117) and they include, as Pontusson reminds us, "a range of economic-structural variables that lie beyond the conventional confines of institutional analysis" (1995, 117). To be sure, Cairns' argument that "social organization along provincial lines, at least outside Quebec, was in part a result of the federal system and the

attendant incentives it presented to provincial (and federal) elites" (Cutler and Mendelsohn 2005, 71) is valid; however, Jan Erk's point on the diffusion impact of social diversity on Canadian politics is equally important, even though such territorially-based social diversity is largely restricted to Quebec. Erk specifically discussed the influence of Quebec nationalism, as insignificant as it may seem to many outside of Quebec, on Canada's federalism and constitution as a whole, especially in redirecting the federal system from the original centralist path intended in the formation of Canadian confederation in 1867 towards its present reality as a decentralized federation, with implications for intergovernmental relations on equalization (Béland and Lecours 2014) which is one of the foci of this study:

> The demographic impact of having a sizeable francophone population controlling the province of Quebec added something to Canadian federalism that an institutional/constitutional perspective would have overlooked. As Quebec sought to safeguard the French language and Roman Catholicism through provincial autonomy, this blazed a trail for other, less culturally distinct provinces to follow, subsequently leading to comparatively strong provinces over the long term. (Erk 2012, 3)

2.2.1.3. The Political Process or Practice Approach

Several scholars of federalism have underlined the fact that federalism entails both institutional structures and behavioral or relationship features. As Friedrich (1968, 6) notes, "federal order typically preserves the institutional and behavioral features of a *foedus*, a compact between equals to act jointly on specific issues of general policy." However, the nature of relationship between governments as stated and defined in constitutions and other legal documents is just the beginning of the interaction between governments as in reality, the relationship is characterized not always by strict adherence to constitutional provisions. There are at least three main reasons while we must look beyond the constitutions as much as we focus on it in order to gain a better understanding of the way federalism actually operates. First, constitutional provisions can be violated or challenged, reflecting either ambiguous provisions, misreading/misrepresentation of the constitution by actors who operate the constitution or deliberate violations of the constitution to achieve some strategic aims (Broschek 2012c). For instance, in democratic federations, the interpretation of the Courts over such violations or dispute can redirect the locus of authority between the federal and state governments beyond what was originally intended by the constitution. Canada's decentralized federal system illustrates how political practices or behavior may diverge from constitutional provisions. As Canadian scholars (Vaughan 1999; Simeon 2004) have noted, the evolution from a largely centralized federal structure at Confederation, which prompted K.C. Wheare (1963) to describe Canada as a "quasi-federalist" country, to a decentralized one occurred partly as a result of a succession of judicial interpretations by the Privy Council that incrementally limited the powers of the federal government. Second, while it is true as (Ross 2000, 405) argues that "the founding constitutional arrangements of any regime must surely be considered as one of the most important factors determining the future trajectory of the state", it is also the case that in many important cases, constitutions contain incomplete agreements (Rodden 2006)

that become object of or subject to subsequent intense political contestations between elites at different levels of government in the historical evolution of the country. It is therefore important to focus on the processes through which these political actors challenge and renegotiate the constitution rules as much as we focus on the constitutional rules themselves. Third, exigent events may arise over time, which open up constitutional rules to multiple interpretations or threaten the consensus or dominant ideas embedded in the constitution order. Because of this, attention to the process through which the incongruence between the constitution rules and the ideas that underpin them and the need of the federal society is resolved is also crucial in understanding conflict dynamics in federations.

It is recognition of this that Daniel Elazar (1987, 12) pointed out that we must go beyond constitutions to fully understand and explain federalism: "the essence of federalism is not to be found in a particular set of institutions but in the institutionalization of particular relationships among the participants in political life." Discussing this further, Watts also contends that "understanding the establishment, operation, and evolution of federal systems requires an examination of more than the formal constitutional and governmental structures. Indeed, it requires analysis of the interactions of societies, institutional structures, and processes" (1998, 127). In other words, where federal society, institutional forms and constitutional designs provide the governmental frameworks from which political elites representing the orders of government derive their legitimacy and incentives to act in a federation, political practices also influence the working of a federation. Consideration of these practices is important because, as Gibson (2004, 6) argues, "when we examine a range of political outcomes commonly associated with federalism, such as the decentralization of the political system, the power of particular political actors and institutions, or patterns of policy-making, it is difficult to tell whether these are being caused by the specific institutions of federalism or by other factors in the political system." Explaining further, Gibson, commenting on the variations in "internal practices, centralization, and power relationships" even among federations with similar constitutional design, argues that such variation "provides evidence that much more is at work in shaping the internal power dynamics of federalism than the institutional features of federalism per se" (2004, 7).

An emphasis on political practices and relationships not only draws our attention to the importance of agency in federal governance but also to the fact that federal institutions emerge and develop from "political conflicts and power struggles between economic, social and political actors" (Gagnon 1993, 15). Accordingly, even when viewed as an independent variable, federalism should be seen as "a moving target…whose causal impact eludes parsimonious theorizing" (Gibson 2004, 7).

In summary, by focusing on the relationship or behavioral aspects of federalism, we will be better able to understand why and how federations change from their original design; how they adapt to changing socio-economic conditions and historical events; the precise nature of interaction between background societal conditions, historical circumstances, and political agency in shaping particular outcome; and the

shifting nature of federal balance over time. Political practices also allow us to understand more fully the dynamic effects of institutional designs on political outcomes, and the various effects across different federations.

2.2.1.4. Towards a Nuanced Understanding of Federalism and Federations

The conclusion from this review of the major approaches to understanding federalism is that, in spite of their strengths, each of these approaches cannot by itself adequately provide an understanding of federalism. With this realization, this study uses as its guide an eclectic conceptual framework that combines these three approaches.

This definition emphasizes the dynamics and complex aspects of federalism as a work in progress and takes into account the fact that, although the legal structure of federalism provides the basic rules for its operation, the operation of federalism goes beyond the division of constitutional powers. At the same time, though institutional design is central to an understanding of federalism, there are also limits to the role of institutions (Erk 2008). Thus, while it is true, as Jennifer Smith argues, that a federal system is "a legal construct…always rooted in a constitution or a treaty" (2004, 14), such a legal-formalistic feature is not the whole essence of federalism. Indeed, to understand the shifts and changes over time in the balance of power in federations, we must look at the interactions between the formal and informal rules, socio-economic, and political factors, governments and the relationship between them. As Watts (2008, 21) reminds us, a more nuanced understanding of federalism can only be gained if we take into consideration the "causal relationships between a federal society, its political institutions, and political behavior and processes," and that it is in this complex and dynamic interplay of "the social foundations, the written constitutions and the actual practices and activities of governments that an understanding of the nature and effectiveness of federal political systems is to be found" (Watts 2008, 21).

This project is situated within this understanding of federalism as a complex interaction between institutions (both formal and informal), social diversities, and political relationships or practices. From this perspective, both formal and informal federal institutions, such as the constitutional division of power over oil and ideas or norms of federalism, are useful factors in explaining conflict dynamics because all federations share these features (Elazar 1987). The influence of these distinctive federal factors is examined and explained here in relation with their interaction with incentives, pressures and demands provided by the unique economic, social, and political realities of Canada and Nigeria. From a historical institutionalist standpoint, this dissertation underscores how federal institutional rules interact with the configuration of economic, social and political structures in the broader polity within which federalism is embedded. These are macrostructural factors (social heterogeneity, the nature and degree of dependence on oil, and the geographical distribution of natural resources), and political processes or

practices related to intergovernmental bargaining either through executive federalism or executive-legislature institutions.

2.3. Federalism, Conflict, and Conflict Management

Several scholars have noted the opportunities and constraints that federalism provides for conflict and conflict management. Previous works have emphasized the potential of federal institutions to facilitate the successful accommodation of diversity, especially in multinational federations (Bermeo 2002). This growing body of literature espousing the 'peace-preserving' (Amoretti and Bermeo 2002) or 'peace-promoting' (Iff 2012) character of federalism focuses on its guarantee of self-rule and shared rule to territorially (or non-territorially)-based ethnic groups or minorities. This guarantee allows federalism to contribute to peace, by limiting conflicts to local levels, tailoring policies and decisions to regional needs to avoid the alienating effects of centralized decision-making, and reducing interregional economic and social disparities (Horowitz 1985, 2007).

However, others have disagreed with these optimistic views of the role of federalism in managing conflict. These scholars base their skepticism or pessimism on the idea that constitutionally-guaranteed autonomy for territorially-based groups could potentially entrench or institutionalize extant ethnic divisions in the federation, or even provide incentives for ethnopolitical mobilization towards secession (Horowitz 1985; Rothchild and Roeder 2005; Bunce 2007). Proponents of this view support their arguments with examples of federal breakdown in nations such as the Soviet Union, Yugoslavia, and Czechoslovakia, as well as the difficulty of accommodating diversity in Nigeria, as empirical evidence.

What is clear from the above is the absence of unanimity on whether or not federalism serves to manage conflicts. As Bakke and Wibbels (2006) note, given the inconclusive or indeterminate nature of these arguments and the availability of empirical evidence to support both the optimistic and pessimistic claims of federalism and conflict management, scholars have been moving beyond the broad question of whether or not federalism preserves peace, to concentrate on questions regarding the conditions under which federalism can deliver on this promise. Arguing along this line, some scholars have noted that the capacity of federalism to be either a 'cure' or a 'curse' is conditional on other factors or institutional arrangements with which federalism interacts as a conflict resolution mechanism (Ghai 2002; McGarry and O'Leary 2005).

In this perspective, Rothchild and Hartzell (2000, 269) note that success in the use of federalism or territorial autonomy to resolve self-determination conflicts depends on its combination with 'other safeguards' such as democracy (Stepan 1999; Bermeo 2002; McGarry and O'Leary 2005), and "policies that give regionally concentrated groups a strong stake in the center" (Horowitz 1993, 36), especially consociational arrangements aimed at preventing majoritarian winner-takes-all politics by sharing power

between subnational elites and guaranteeing the participation of these elites in central institutions (Lijphart 1977, 1979). John McGarry and Brendan O'Leary (2005) also stressed the importance of strong commitments to the representation and participation of national and ethnic minorities in the central government as a way of ensuring stability of a multinational federation. However, they insist that elite accommodation is only one of five conditions for stability in multinational federations. The others are the authenticity of the federation's democracy, the voluntary nature of its origin, its prosperity, and the nature of ethnonational communities. According to McGarry and O'Leary (2005) 'genuine' federations (in contrast to undemocratic or 'pseudo-democratic' federations) respects the rule of law regarding the rights of communities and division of powers, creating an environment that allows for open bargaining and dialogue between its communities. Ideally, a federation should be created from voluntary processes of 'coming together' or 'holding together' rather than being forcefully or coercively constructed. It should be prosperous and guarantee fairness in the distribution of economic goods and resources, and should also have a dominant ethno-national community.

In their study of conflicts in federations, Bakke and Wibbels (2006) direct our attention to some of the noninstitutional factors that can interact with federal institutions to support peace. They argue that fiscal decentralization can either mitigate or provoke conflicts, depending on specific characteristics of the societies that federal institutions are designed to govern, especially the level of regional inequality and the degree of ethnic diversity in these societies.

Another condition for stability in multinational federations is the role of political parties. The crucial importance of political parties as the principal intermediary institution through which elite bargaining and negotiations take place has been stressed in the literature on federalism, beginning with William Riker (1964), who argues that parties are central to the formation and survival of federations. This line of argument continues with Juan Linz and Alfred Stepan (1992, 123), for whom the aggregation of support from various groups in the country through federation-wide political parties is capable of generating an overarching identification with the state, which would help in managing federations characterized by 'competing nationalisms,' and where there are deep differences among the population about what actually constitutes the "state."

These views were given renewed theoretical force by Filippov et al. (2004), who argue that if federalism as an institution must deliver on the promises expected of it, be it higher economic performance or accommodation of cultural diversity in a way that is self-enforcing and self-sustainable, then it must be aligned with the interest of politicians who operate it. Such incentives are necessary if politicians must abide by the institutional rules and procedures and desist from shirking their responsibilities. According to Filippov et al. (2004), unless federal institutions are made compatible with the interests of their operators, federal compacts and rules would be obeyed haphazardly, if at all. Such breaches are reflected in the federal aggrandizement of power and the opportunistic behavior of the constituent units

in reneging on federal bargains, which threatens the stability of the federal state. They therefore argue that political parties are the means by which federal institutions can be aligned or made compatible with the interests of political actors. Building on earlier work by Riker (1964), which emphasized the importance of bargaining between political elites to the formation and survival of federations and the argument that these political elites would serve to bargain as long as the benefits of doing so supersedes the political cost of breaching the agreement, Filippov et al. argue that a well-designed constitution is not enough to ensure compliance. Rather, what guarantees compliance is a "'properly developed' political party system", because such a party system provides the medium through which the self-interest of political elites in democracy, which is "winning and maintaining elected public office" (2004, 39), is realized.

Filippov et al. further argue that not all types of political parties are conducive to encouraging federal stability. Integrated, or what they call 'federal-friendly,' parties – strong national parties with regional branches – are most desirable for stability, because they provide a framework in which "politicians at one level of government bear an organizational relationship to politicians at other levels" (Filippov et al. 2004, 190). In other words, integrated parties ensure a symbiotic relationship between coalitions of politicians at different levels of government such that "they rely on each other for their survival and success" (Filippov et al. 2004, 191). By tying the political fortunes of national politicians to those of local and regional politicians, integrated parties discourage politicians from aggrandizing power or other means toward immediate gains, as this would hurt their regional/local allies. At the same time, regional and local politicians would not unduly disrupt the functions of the federal government, as doing so would damage the electoral fortunes of national politicians upon which their own electoral chances depend. According to Filippov et al. (2004), it is this 'incentive compatibility' cooperation, which integrated parties stimulate between national and regional politicians, that ensures that politicians will naturally adhere to non-disruptive federal agreements concerning highly divisive issues such as control of natural resources or ethnic conflicts. By constraining potential disruptions to the federation and redirecting toward non-disruptive outcomes that are profitable to society as a whole, integrated parties make federal institutions self-enforcing and sustainable.

2.4. The Federalism-Democracy Debate

Canada and Nigeria represent contrasting democratic profiles or experiences, with Canada being a long-standing or advanced liberal democracy while Nigeria is a transitional democracy that has experienced democratic breakdown and military rule. Unlike Canada, with its record of 15 decades of continuous

democratic rule, Nigeria has spent thirty of its fifty-six years of independence under military rule, with democracy only restored in 1999 after just over 10 years of civilian rule since 1960. What is the role of the degree of institutionalization of democracy on conflict management in these federations, and can we compare an established and transitional democracy?

The dominant view is that federalism requires democracy to function properly as an instrument of conflict regulation (McGarry and O'Leary 2001). With the emphasis on constitutions, constitutionalism, and the rule of law, there have been normative and theoretical arguments that democracy helps safeguard the "noncentralisation of political power," a core feature of federations which in turn helps guarantees federal stability (Duchacek 1987, xi). Thus, the key argument is not just that federalism has built-in virtues that support democracy, but also that the latter is beneficial to the former. In fact, keeping in mind the supposed symbiotic relationship between the two concepts, Ivo Duchacek (1987) goes so far as to argue that they are merely different sides of the same coin, with federalism being the territorial dimension of democracy: "a federal constitution expresses the core creed of democracy, pluralism, in territorial terms" (1987, 192). Alfred Stepan (2004) seems to support this view of a mutual relationship between federalism and democracy, especially in multinational polities, noting that while few of these polities are democracies, those that endure are all federal.

There are several ways in which democracy is believed to enrich federalism to the extent that its absence is considered a drag on the successful operation of federalism. Given that federalism goes beyond nominal constitutional division of powers (Filippov et al. 2004), there is merit in the claim that democracy is especially crucial to guarantee stability in the consequent operation of federal constitutions (Filippov and Shvetsova 2013, 167). The benefits of democracy for federalism include "well-functioning democratic institutions, judicial system, integrated national political parties, and appropriate electoral incentives created by democratic political competition" (Filippov and Shvetsova 2013, 167). In addition, theoretically, democracy guarantees that the constitutionally shared powers in federations are neither abrogated nor concentrated in a single individual leader or supreme military council, as occurs in practice under military rule or other authoritarian regimes. Without democracy, it is also difficult to cultivate the norms of dialogue, negotiations, and compromise, which make intergovernmental relations less rancorous and fosters respect of the division of constitutional powers in federations and for minority groups within the federation (Watts 2008, 2010).

It is against this background that the argument has been made that, in the absence of democracy, true federalism is unattainable, and what remains are sham or quasi-federations which cannot support federalism's peace preserving goal. Accordingly, the consensus is that "outside of the democratic context, federalism is ultimately an unstable form, which logically progresses either to territorial disintegration or to becoming a mere constitutional formality" (Filippov and Shvetsova 2013, 167). Among the best known examples of such sham federations include Nigeria under military rule (1966-1979; 1983-

1999), the Soviet Union (USSR), Yugoslavia, and Czechoslovakia, all of which were federations under authoritarian or totalitarian single-party or central-government-controlled rule (McGarry and O'Leary, 2005). Indeed, Filippov and Shvetsova (2013) contend that not all democracies are conducive to federal stability and success. They differentiate between "high-functioning democracies," which provide the "complex competitive structures" that encourage the creation of coalitions to defend the federal agreement entrenched in the constitution, and "new and low-functioning democracies," which "resort to imposing direct restrictions on coalition formation thus scaling back democratic competitiveness" and are hence incapable of ensuring that the federal government credibly commits to the terms of the federal agreement (Filippov and Shvetsova 2013, 168). Their conclusion is that democratic development is undermined by the federalism in low-functioning democracies (Filippov and Shvetsova 2013).

However, some other scholars have challenged the conventional view of the relationship between federalism and democracy, arguing that federations do not necessarily require democracy to flourish (Adeney 2007). A popular proponent of this view is Isawa Elaigwu (1988, 173), who argued that, in the case of Nigeria, military rule was not "entirely incompatible with federalism" except for major differences of "style and structures of administration." Elaigwu based this argument on the idea that the military were compelled by the "heterogeneous and centrifugal forces" in Nigeria's multinational polity to maintain the federal principle: the constitutional division of powers between two or more orders of government.

Arguing along this line, Benz and Sonnicksen (2015) assert that the relationship between federalism and democracy is more complex than previously thought, and that democracy is not necessarily a precondition for federalism, as authoritarian regional governments can also help safeguard federalism. This can, in effect, lead to the creation of "autocracy-sustaining" federalism in contexts in which safeguards endogenous to federalism are lacking, such as in Russia under Putin (Obydenkova and Swenden 2013, 89).

Elazar (1987, 172) made the same observation regarding authoritarian federations in Latin America, which he referred to as 'caudillistic federal systems.' He argued that under such systems non-centralization was often "maintained through local jefes," or local power wielders, who maintained "power bases in the constituent states." Citing the example of Brazil, he argued that "up until the Vargas years, the military was organized on a state-by-state basis" pointing out that such asymmetry in power structure served as countervailing powers that preserved Brazilian federalism. Elazar further stressed that the country's federalism "meant something" during this period "principally because the army, which was the equivalent of the party system in other polities, was organized along federal lines with various generals having their power bases in the states" (1987, 172). Elazar (1995, 33) stated that similar system of "caudillistic noncentralization" in which "strong local leaders" perform the functions of political parties to diffuse power to the constituent units existed in Nigeria under military rule. He argued that

through such "caudillistic noncentralization," federations where the party system is less developed could gain "some of the same decentralizing effects" that noncentralized party system would have provided for the maintenance of federal noncentralization.

In addition, as Benz and Kropp (2014) point out, "in both autocracies and democracies, federalism generates tension between institutions and actors which impacts the functioning and the dynamics of the political system." Arguing along this line, Simeon (2005) has noted that the idea of an inherent compatibility between federalism and democracy seems simplistic, as federalism could also have an uneasy relationship with democracy, or even undermine democracy rather than enhance it. Specifically, Simeon (2005) argued that federalism's protection of the rights and distinct identities of territorially concentrated minorities is at odds with the understanding of democracy as majority rule. Seen from this perspective, federalism can also be said to entail a permanent tension with democracy. Stepan (2004) also underscored this tension using the case of the dissolution of the Yugoslav federation in 1991. While some of the commentaries regarding why Yugoslavia disintegrated emphasized the country's non-democratic profile (see for example, McGarry 2004), Stepan pointed to the probability of a reverse mechanism where the pressures of democratization hastened the collapse of what was a quasi-federal system held together by coercive party apparatus. In other words, "precisely because Yugoslavia was not a democracy, its 'quasi-federal system' could function peacefully as long as the party-state played the steering role. Once elections began to breathe some life into the inert and incomplete federal system, it fragmented" (Stepan 2004, 32-33). Seen from this perspective, the tension between democracy and federalism can also lead to the unraveling of a country, and this challenges the often taken-for-granted argument that democracy matters always in a positive sense for federal stability or conflict management.

Indeed, it is because of the insufficiency of democracy on its own to manage conflict in multinational federations such as Canada, India, Nigeria, Belgium, and Switzerland, all of which are characterized by cultural diversity and pressure to accommodate that diversity, which some scholars have suggested that majoritarian democracy should be complemented with other conflict management arrangements. Alfred Stepan (2004, 443) suggests that in these countries, recourse should also be made to asymmetrical federalist arrangements such as those "that grant different competencies and group-specific rights to some states" or grant member units of different sizes and populations the same influence or veto powers over common decisions. An example of the latter is equal representation for both minority and majority regions in the Senate (Simon 2005). Another non-majoritarian arrangement recommended as a panacea to reconciling the tension between federalism and democracy in multinational federations where sharp cultural divisions pose an ever-present threat to peace is what Arend Lijphart (1977, 1979, 2008) calls consociationalism or consociational democracy. In contrast to the majoritarian democracy in which the individual citizen is the basic political unit, consociational democracy uses groups or the collective as the primary basis of political decisions. Some elements of consociational democracy include group

autonomy, proportional representation or power sharing, and minority veto. These elements help to guarantee self-government and the rights of all groups represented in the federal government, thereby preventing domination by a majority and the conflict this may provoke. These instrumentalities help federalism qua federalism to protect minority rights, even though doing so stands in apparent violation of the basic democracy's principle of 'one person, one-vote' or representation according to population (Rep. by Pop.).

The assumption that democracy is a *sine qua non* for federalism has been taken for granted so much that in comparative federalism, many scholars have tactically shied away from comparing consolidated and non-consolidated democracies, using the justifications that they are simply not comparable. This study, on the contrary, takes the view that consolidated and non-consolidated federations can, and should, be compared. By comparing federations with contrasting democratic experiences, such as Canada and Nigeria, we can critically examine "the conditions under which federalism and democracy are mutually reinforcing or those under which they are not" (Obydenkova and Swenden 2013, 88), and the possible impact of these relationships on conflict.

Thus, to avoid the risk of oversimplification, it is appropriate not to take the relationship between democracy or its underdevelopment and federalism—and the impact of this on political outcome—as an ontological one, but as one structured by institutional mechanisms (Gibson 2004), with the implication that, although this relationship can be mutually beneficial, federalism and democracy can also be in tension with each other (Benz and Kropp 2014; Simeon 2005).

Against this background, Stepan (2004, 32) argues that a distinction should be made between a democratic and non-democratic federation, given that only a constitutional democracy can be, in the strict sense, a genuine federation; however, "the federal features of some non-democratic polities may become extremely important" in some circumstances. Unpacking the complex relationship between federalism and democracy in the comparative analysis of federalism therefore requires that we move beyond conventional wisdom that takes this relationship for granted without sufficiently specifying how these political institutions interact. Doing so will enable us to undertake an analysis of "the difference in how democratic and non-democratic systems function politically" or the different ways in which the "power structures and political dynamics" of each category of federation interact with constitutional forms of federalism to shape outcomes (Stepan 2004, 32). This view is supported by Nancy Bermeo, who noted that while the institutional supports for peace-preserving federalism are "probably both federal and democratic" (2002, 108), having this knowledge is merely the first step in trying to undertake the more pertinent tasks of uncovering the variations in democratic institutions across different federal systems, and specifying how these may account for federalism's 'success' or 'failure' in the management of territorial cleavages.

There are also other important reasons to compare established federal democracies and emerging ones or ones with history of authoritarianism. The first is that while I agree that democracy matters, we must also remember, as Stepan points out, that democracy is a continuous work in progress; therefore, no democracy is 'consolidated' in the real sense of the word. Given this reality, Stepan urges us to think of "democratic consolidation as a desired goal" which, in empirical reality, "is often not achieved" (2004, 331). This idea of democracy as partial instead of complete is reflected, for example, in the coexistence of what could be described as a fortress of authoritarianism in the oasis of democracy in many countries. Federations, as examples of political systems that encourage and constitutionally guarantee diversity or self-rule, would appear to provide significant incentives for variations in the democratic profiles of the states that make up the federation, even though the dominant character of rule at the national level may overshadow those of the state/provincial levels. Gibson (2004) explored this potential in his study of Mexico, in which he discovered the co-existence of subnational authoritarianism in what was a national democracy. Attention to these dynamics would provide nuance to our claims and help us to avoid sweeping generalizations about the importance of democracy for the operation federalism.

Second, alongside the juxtaposition of both democratic and authoritarian regimes at different orders of government in the same federation, Falleti (2011, 137) has noted that, even among authoritarian regimes, there are "varieties of authoritarianism." Using the cases of military regimes in Argentina and Brazil, she further argued that the different ways that authoritarian regimes organize the state can account "for the divergent origins of developmental decentralization" and in turn, "the contrasting evolution of intergovernmental relations in each country." Thus, authoritarian regimes are different "in terms of access to power, staffing of offices, sources of support, decision-making processes, succession rules and interaction with civil and political society" (Falleti 2011, 139), and these differences matter for policy outcome and the shape of federalism in these countries. In addition to cross-national differences, there may also be remarkable differences over time in the institutional organizations of authoritarian regimes (and, of course, any other regime, for that matter) even within one single country, and within the same regime, and these organizational differences can affect multi-level power relations. Nigeria's experience with military rule demonstrates this fact, pointing not just to the organization of the military, but also to the idiosyncrasies of a particular military leader, the degree of stability or precariousness of his power, and the temporal context of international events such as oil price crises, in shaping the ebbs and flows of federal-state relations, including the distribution of powers and resources and the conflict potential under different or even the same military regime(s). Military regimes are not homogeneous (Falleti 2011; McKinlay & Cohan 1976) and the Nigerian military rulers have vacillated in their attitude toward federal principles, with some particular gravitating towards more 'democratic' openness than the others in how they organize power, and with this organizational differences affecting their idea of shared rule and self rule and, in turn, intergovernmental relations. Moreso, even the same regime has demonstrated internal variations over time regarding federalism. Greater attention to the

time factor would also broaden the discussion of the effect of regimes on federalism. To summarize, while the democratic experiences of federations matter for conflict processes, these federations should be systematically compared, rather than dismissed a priori as incomparable, in order to better understand how democracy or lack of it matters. This is the approach adopted for this study.

2.5. The 'Missing Link' in the Current State of Research and the Study's Potential Contribution

A salient theme that emerges from the above review is that the potential of federalism to enhance peace is not automatic. Thus, recent studies of the relationship between federalism and conflict have begun to move away from the polarizing debate over whether or not federalism contributes to peace, choosing instead to examine the conditions under which federalism can facilitate or hinder conflict (Wibbel and Bakke 2006). Some of the conditions highlighted by this literature which can interact with federalism to shape conflict potential include the roles of power sharing arrangements guaranteeing regional elites a stake at the centre (Lijphart 1977, 1979; Horowitz 1993; McGarry and O'Leary 2005), democracy (McGarry and O'Leary 2005), the organizations of political parties (Riker 1964; Linz and Stepan 1992; and Filippov et al. 2004), and the degree of ethnic diversity (Bakke and Wibbels 2006). However, although these contributions have without a doubt advanced knowledge in the field of comparative federalism, they do show some weaknesses that may limit their utility. Besides the dearth of systematic theory-driven comparative study examining the question regarding how federalism affects oil conflict between governments in federations which is the core motivation for this study, five weaknesses can be established.

First, the studies exploring the relationship between federalism and conflict tend to treat federalism as a monolithic concept, without consideration of the various forms that the constitutional allocation of power can take from one federation to the other, which, broadly speaking, can be decentralized or centralized.[22] While some recent studies, such as Brancati (2009), Wibbel and Bakke (2006), and Bunce (2007), seem to draw attention to this distinction, some of these studies nevertheless still examined

[22] As stated earlier, although these basic constitutional rules allocating power and the authority they bestow on orders of government may be stable at a particular point in time, they are continuously being (re)negotiated between orders of government as a result of political competition, conflict, judicial interpretations, or changes in norms or ideas, or due to other contingent historical events such as war or economic shocks. Hence, a particular form of authority in a particular country may fluctuate over time; for example, between the extremes of centralization and decentralization. Within the historical evolution of a particular federation, therefore, these authority patterns are better viewed as a continuum instead of fixed categories that are perpetually cast in stone. One such example of this is Canada's evolution from its quasi-centralized features established under the British North America Act (BNA Act), to its present status as one of the world's decentralized federations, and the oscillation in between these periods of the relative dominance of either centralization or decentralization or the coexistence of both features. However, as I demonstrate later with regard to the oil sector, some policy sectors may demonstrate more durable authority relationships that diverge from the general pattern.

decentralization or conflate decentralization and federalism which, even though may share some similarity, are not the same concepts. For instance, even though the title of her study is *Minority Politics in Ethnofederal States*, Bunce (2007) investigated both federal and non-federal states: Russia, Georgia, and Serbia-Montenegro. Also, in *Design over Conflict: Managing Intrastate Conflict through Decentralization,* Brancati (2009) argued that political decentralization as used in her work is "synonymous with federalism" but further argued that she "deliberately use the term political decentralization" rather than federalism "because federalism connotes a dichotomy between federal and non-federal countries whereas decentralization suggests a spectrum of degree of decentralization" (4). In so doing, these studies systematically downplay the basic distinguishing feature of federalism as a system of constitutionally divided powers between (at least) two orders of governments. While, as discussed above, the politics of federalism transcends constitutional rules, the fact that intragovernmental conflict dynamics are primarily framed around constitutional rules, even though subsequent iterations of these dynamics may even challenge these rules, demonstrates the centrality of constitutional division of powers (and its core of non-centralization) as a distinguishing feature of federalism. Daniel Elazar decried this tendency in the literature on comparative federalism to conflate federalism and decentralization, urging students and scholars to understand federalism "on its own term" instead of seeing it as mere decentralization (1987, 13) because decentralized systems lack non-centralization, which is the core feature of federalism:

> Non-centralization is not the same thing as decentralization, though the latter term is frequently—and erroneously—used in its place to describe federal systems. Decentralization implies the existence of a central authority, a central authority that can decentralize or recentralize as it desires. In decentralized systems, the diffusion of power is actually a matter of grace, not right; in the long run, it is usually treated as such. In non-centralized political systems, power is so diffused that it cannot be legitimately centralized or concentrated without breaking the structure and spirit of the constitution. (Elazar 1987, 34-35)

Second, most studies examining the link between federalism and conflict are inattentive to the temporal dimensions of these conflicts, which would have contributed to a better understanding of the dynamics of the conflicts over time. Rather, these studies largely take a static view of conflict that are limited in their temporal horizons. Pierson (2004, 16) argues that "many important social causes and outcomes are slow-moving" and that "they take place over quite extended periods of time." Thus, an ahistorical view of conflict cannot adequately explain the complex mechanisms behind conflict patterns and variations. This study attempts to bridge this gap as well.

Second, in most studies on the relationship between federalism and conflict, the underlying sociocultural identities, especially ethnicity or nationalism, of territorial governments are given primary attention in shaping conflict outcomes while federal institutional rules are conceived as epiphenomenon, dependent as they are on the social cleavages. Besides the explosive nature of ethnic conflict in federations (Elazar

1998),[23] a major reason for the primary focus on ethnic conflict is the belief that in ethnofederal states or multinational federations where constituent units reflect ethnic-lingusitic cleavages (Roeder 2009), or even multinational societies generally, these social or cultural identities are '"givens' of social life" (Lecours 2000, 504). Accordingly, cultural identities are viewed as more important than other identities and interests; as well, other identities and interests such as those of territorial governments are assumed or expected to "flow naturally and spontaneously from [these socio] cultural markers" (Lecours 2000, 500). Yet, this bias for the primacy of sociocultural identities is problematic as it downplays the agency of "governments as persisting constellations of interests" (Cairns 1977, 699), and how institutions such as federalism shape social and political outcomes, including the "processes of identity formation, transformation and politicization" (Lecours 2000, 501).

A third weakness of most extant comparative studies of the link between federalism and conflict in multinational federations, and on conflict generally, is the tendency to privilege one kind of conflict—violent conflict (including civil war, insurgency, rebellion and secession)—over other kinds. The consequences of these predilections for ethnic conflict and violence is that we have limited theoretical and comparative knowledge of the relationship between and within constitutionally divided orders of governments and conflict dynamics regarding oil and how this interacts with ethnic conflict, for instance.

Fourth, most studies of the links between federalism and conflict are inattentive to the temporal dimensions of these conflicts, which would have contributed to a better understanding of the dynamics of the conflicts over time. Instead, these studies largely take a static view of conflict that are limited in their temporal horizons. Pierson (2004, 16) argues that "many important social causes and outcomes are slow-moving" and that "they take place over quite extended periods of time." Thus, an ahistorical view of conflict cannot adequately explain the complex mechanisms behind conflict patterns and variations. This study attempts to bridge this gap as well.

The fifth research gap is the tendency in conventional comparative studies of federalism to compare 'similar' federations, especially institutionally matured/developed federations or those that are consolidated democracies. Rarely are developed federations and emerging ones systematically compared. Rather, in most comparative studies, the emerging federations are often dismissed with a wave of the hand and excluded from comparative research, because they are believed to (re)present distinct challenges that are unique to their national experiences and are thus deemed incomparable with the mature federations. Hence, in the field of comparative federalism, federations in developing countries have become black boxes, and consequently, we know little about the distinctive or common

[23] Elazar noted the implication of ethnicity for federalism when he stated: "Ethno-nationalist statism is the most difficult form of statism to accommodate in any kind of federal relationship. Ethno-nationalism is highly egocentric in most if not all cases. Consequently, there must be even more of a will to establish federal links and arrangements where ethno-nationalism is involved" (Elazar 1998).

outcomes that emerge from differences in institutional forms between established and emergent federations, beyond mere conjectures and impressionistic assumptions.

As noted in the previous section, one of the contextual problems often cited that is particular to these emerging federations, which renders them incomparable with their mature counterparts, is their lack of democracy or the fragility of their democratic institutions. Echoing the popular view in the literature that there cannot be federations without democracy, many scholars simply exclude such countries from comparative analysis. Yet, while democracy is certainly beneficial to federalism, ignoring non-consolidated federal democracies from comparative analysis limits our systematic knowledge of the particular or diverse ways that these varieties of federalisms—their origin, evolution and adaptation to changing historical circumstances through time, societal conditions, and political processes, including democracy (or democratization) itself—affect political outcomes beyond intuitive and speculative conclusions.

This dissertation addresses the gaps noted above in the literature of the nexus between federalism and conflict in the following ways. First, in contrast to the prevailing views in previous literature, this dissertation not only treats federalism "on its own terms" but argues that the differences in institutional design among federations (Anderson, 2007; Watts, 2008) affect the impact of federalism on conflicts. This is because, by delimiting the scope and sphere of action among territorial orders of government, the constitutional rules allocating power or distributing policy and fiscal competency over issue area such as oil provide the basic starting point for interaction between the orders of government. In so doing, the constitution establishes the extent of power disparities that restrain or enable the capabilities of a particular order of government, its opportunity structure, its institutional resources that shape its political strategies, and the specific strategy(ies) it might employ. Set in this context, the constitutional allocation of power provides the initial formal rules that structure the relationships, both conflicts and cooperation, between the various orders of government, both vertically and horizontally, such as federal-state and interstate conflicts.

Second, and following from the above, the primary accent of this study on federalism qua federalism in this dissertation requires that we consider both the vertical and horizontal dimensions of federal relations. Bolleyer (2009) notes the surprising little attention given to horizontal relations in extant literature on federalism, with most of these studies focusing on vertical relations between orders of governments. In contrast, this study examines both horizontal and vertical relations and conflict over oil. Attentiveness to horizontal intergovernmental conflicts is important not just because constituent units are constitutionally empowered governments in their own rights that "enjoy measures of independent and interdependent political power, governmental control and decision-making" (Agranoff 2010, 17), with interests that may conflict with those of the federal government, but also because of the impact of state-state/province-province relations on (de)centralization dynamics. For instance, as

Boyeller (2009, 5) noted, when constituent units of a federation are fractionalized, it becomes "much easier for the federal government to impose its policies" on them even when such actions mean the encroachment of the competence of these constituent units and even when they oppose such actions in principle. Yet, the incapacity of these governments to present a common front in opposing or challenging the federal government's plans or actions can further the latter's centralization drive (Boyeller 2009, 5). This pattern of state-state/province-province relations relations and the federal-state power dynamics it produce may provide distinct catalyst for conflict in the federation where this is the norm compared to federations where collective resistance of constituent units against federal government's intrusion into their areas of competence is more efficient, even when the dominant pattern of relations between the constituent units may be a competitive instead of a cooperative one.

Taking both vertical and horizontal contours of intergovernmental relations together, an important question in assessing the effects of federalism is whether a particular type of federal constitutional design would make conflict more or less likely than other types. Exploring how different constitutional forms of federalisms interact with political practices and other contextual factors and pressures to influence conflict dynamics is therefore essential to explaining conflict processes and the common or contrasting effects of federalism on conflict, particularly why some federations are more successful in managing conflict than others. This study contributes to this understanding.

Third, and as stated in Chapter 1, to address the privileging of one kind of conflict—violent conflict (including civil war, insurgency, rebellion and secession)—over other kinds, this study views conflict as processes. Such understanding more comprehensively developed with my frame of conflict dynamics, which I use to explain offshore oil conflict in Chapter 8, helps capture the subtleties of conflict processes and their temporal changes over time that are often lost with the preoccupation with violent or high-intensity conflicts.

Fourth, to incorporate the temporal dynamics of conflict, this dissertation utilizes the historical institutionalism framework. This framework provides convincing analytical tools with which to capture development of federal institutional rules over time and the conflict over these rules over oil. Drawing on historical institutionalism, this study demonstrates how distinctly federal institutional rules—both formal rules allocating competence over oil and informal rules regarding normative ideas about federalism—interacting with macrostructural factors such as social heterogeneity, the nature and degree of dependence on oil, and the geographical distribution of nature resources, and political processes or practices related to intergovernmental bargaining either through executive federalism or executive-legislature institutions. It also shows how these institutions were influenced by temporal historical processes including the origin of federal institutions, sequence of rule creation, and contingent political economic processes, including critical junctures and path dependence and how federal institutional rules

in turn mediate the influence of these temporal dynamics on the strategic interests of actors representing the federal and provincial/state governments.

Finally, by comparing Canada and Nigeria, two federations with temporal differences not just in their democratic experiences and development of oil industry but also different federal institutional design allocating power over oil, this dissertation address the challenge of research silos in comparative federalism. By doing so, it contributes to the renewed scholarly emphasis on varieties of federalism (Benz and Broschek 2013a, 2013b), and the mechanisms or processes by which particular federal institutional designs and their underpinning ideational frames interact with structural factors to generate distinct patterns outcomes in federations.

2.6. Conclusion

This chapter reviews the literature on federalism and on the nexus between federalism and conflict. It points out the underdeveloped areas in the literature that it aims to fill, and also provides the conception of federalism that this dissertation will utilize as its working definition. The next chapter outlines the theoretical framework of this project, which provides the analytical lens from which to view the relationship between federal institutions, governments, and political elites who represent them, and oil conflict set within the historical contexts of these federations. In consonance with the conception of federalism as the interaction of institutions, social diversities, and political processes as presented in the previous section, the chapter is structured against the understanding of historical institutionalism as an analytical frame which gives primacy to the long term complex interaction between political institutions, ideas, and interests (Béland 2005) and the impact of this interaction on political outcomes.

CHAPTER 3

THEORIZING FEDERALISM AND OIL CONFLICT DYNAMICS:

A HISTORICAL INSTITUTIONALIST APPROACH

3.1. Introduction

This project aims to answer the question, "How does federalism affect the generation and management of intergovernmental conflict over oil in Canada and Nigeria?" In this chapter, I discuss the theoretical framework of historical institutionalism and explain features of this theoretical perspective that I have found useful in answering the research question. The chapter is structured against the understanding of historical institutionalism as an analytical frame, which gives primacy to the long term complex interaction between political institutions, ideas, and interests (Béland 2005) and the impact of this interaction across space and time on political outcomes.

3.1.1. Conceptualizing Federalism as Dynamic Configuration of Institutions, Interests, Ideas, and Context

Analytically speaking, there are five mutually reinforcing features of historical institutionalism that are useful for this study. First is the primary importance accorded the role of institutions/rules in structuring human behaviour in general and the specific configuration of a country's institutions. Second is the role of human agency, interests, and purposive behaviour in the creation and operation of institutions, even though these actors are also influenced by the institutions, which they create but within which they operate. Third is the potential influence of ideas on political outcome such as conflict over oil. Fourth is attention to the mediating role of prevailing institutional context in shaping the structuring role of institutions and the actions, purposive or otherwise, of the participants. Fifth, and finally, is an emphasis on the historical dynamics of institutional growth and development and the impact of this on conflict dynamics. I elaborate on these features in the following pages, pointing out how this framework interacts the understanding of federalism as used in this study—as the interaction of constitutions-institutions, federal society, and political practices—to aid in exploration of the research question.

3.2. Focus on Institutions

A key feature of historical institutionalism is its focus on institutions and their role in shaping or structuring the behaviour of individuals and collective political actors, and thus in influencing political outcomes such as conflicts over oil. Institutions, to historical institutionalists, are systems of formal and informal rules (North 1990). Hall and Taylor (1996, 938) argue that institutions are "formal and informal procedures, routines, norms and conventions embedded in the organizational structure of the polity or the political economy." Though historical institutionalists may privilege formal institutions in their

accounts of institutional behaviour, they also give attention to the roles of informal institutions such as ideas and their translation into norms of behaviour. This is because, while both types of institutions or rules may reinforce each other to shape political outcomes in ways that are beneficial to societies, there is also the opposite possibility of formal and informal institutions working against each other, with less-desirable consequences (de Soysa and Jutting 2006).

A key claim made in this study is that there is a significant relationship between the federal institutional frameworks—especially the formal constitutional rules allocating power over oil—and political struggles (conflicts) over these resources. Consequently, this study will use insights from historical institutionalism to illuminate how the different dominant forms of federal constitutional division of power over oil—decentralization in Canada and centralization in Nigeria—create different incentives for conflict over oil. Viewed from this perspective, the particular divisions of power between orders of government over oil can shape the strategic interests of federal and provincial/state actors, define the types of claims or pressures these actors can deploy or exert, define the strategies they can deploy, and govern how these processes shape conflict outcomes over oil as well as the management of these conflicts. In short, institutional rules as the constitutional division of power over oil in a federation can, to use the words of Immergut (1998, 20), "encourage (or discourage) the mobilization of interests" relating to claims regarding oil between orders of government "by recognizing the legitimacy of particular claims or even by providing these persons with the opportunity to voice their complaints" while discouraging others.

Using the above insight from historical institutionalism, this study will show how federal institutions, especially federal constitutions, are central in shaping conflict over oil in Canada and Nigeria by providing the formal arena and context for the distribution of power between constitutionally empowered government (Gibson 2004). However, the study will also show that both formal and informal institutions and rules are equally important. For example, informal institutions, such as executive federalism in Canada, are grounded in and emanate from a society's history, economy, and culture. These informal institutions, especially ideas about federalism, interact with formal institutions to shape conflict outcomes.

3.3 Ideas as Interpretive Framework for Institutions and Actors

Recent studies taking a historical-institutionalist point of view draw attention to the fact that, besides material power or 'vested' interests, institutions also "embody ideas about their purposes and about the appropriate identities and practices of their participants" (Smith 2006, 100). Ideas are important because they "constitute interests" by ordering and determining "the content of preferences" (Blyth 2003, 695), and are also the repertoires used to legitimate interests, institutional arrangements, and political actions (Schmidt 2010). In this context, ideas "specify not only the goals of policy and kind of instruments that can be used to attain them, but also the very nature of the problems they are meant to be addressing"

(Hall1993, 279). This is what Mahoney (2000) refers to as the legitimation-based logic of institutional reproduction and change.

Especially at critical junctures or "moments of uncertainty and change" (Blyth 2003, 251), political actors seize upon certain ideas to reproduce or reinforce established institutional patterns (Beland, 2005), or to shift or even dismantle existing institutional arrangements. In this sense, "ideas give substance to interests and determine the form and content of new institutions" (Blyth 2003, 15). Yet, while some ideas are taken as given, considering that they do generate very broad consensus about their meaning and purpose, others are fiercely contested: just as institutional agents may engage in struggles over power, so may they struggle over ideas. It therefore follows that frictions or struggles over the competing ideas held by different institutional actors are also endogenous sources of institutional creation, changes, transformations, and dynamics (Lieberman 2002; Broschek 2014).

A major ideational tension that pervades every federation is that between shared rule and self-rule (Elazar 1998; Watts 2008; Broschek 2014). For instance, the idea of provincial equality that underlies equalization payment in Canada has been contested based on ideas about the distinctiveness of provinces in terms of their development needs. Such arguments have been used by poorer provinces such as Newfoundland and Nova Scotia to demand that they should be treated specially or asymmetrically (in relation to other richer provinces) in the design of the equalization formula and proprietary rights over offshore oil resources and revenues accruing therefrom. Paradoxically, in framing their idea of provincial distinctiveness deserving of asymmetrical treatment, these provinces argue that such asymmetrical federalism is a route to equality. The changes in the equalization formula, especially the weight given to oil resources in the computation of the formula, reflect this ongoing tension between these competing ideas.

At the same time, the triumph or acceptance of an idea within an institution is also contingent on historical context. For instance, though efforts were made to tinker with the dominant idea of state rights reflected in the decentralized federation that was the mainstay of Nigerian federalism at independence, the exogenous event of civil war acted as a critical juncture that opened up opportunities and created an incentive structure for the military rulers and their civilian bureaucrats at the federal level to reverse this form of federalism. In doing this, the military appealed to the idea of national unity as a discursive frame to rally support for centralization of power in order to weaken the support of the then-Eastern region, which attempted to secede from the federal republic of Nigeria to form the Republic of Biafra.

Although the acceptance of ideas is often based on their legitimacy (how problems that ideas are supposed to solve are defined, and how issues are framed), it also depends on the resources available to particular agents in order to impress their ideas on others and encourage or compel others to accept

those ideas as the 'legitimate' ones, even if they are not the most popular options among contending ideas. Thus, an understanding of the relationships between ideas and institutions can only be gleaned from the interplay between institutions, ideational logics, and political actors'/decision makers' interests and strategic manoeuvring (Katznelson and Weingast 2005; North 2006). However, the interaction of these factors must be situated in their historical and broader social contexts in order for us to gain a nuanced and comprehensive explanation of the complex dynamics as to why certain ideas (and the policies they inform) are accepted and entrenched in institutions instead of others; why some ideas take roots and others fail; why some ideas, once embedded in institutions, are difficult to displace or replace with new ones; and how ideational changes force concomitant changes in institutions. Finally, a closer focus on the interaction between ideas, interests, and institutions will provide a better understanding of why the same idea, such as federalism, may take on distinctive forms in different federations, leading to different constitutional rules allocating competency over oil resources.

3.4. Agency, Interests, and Power

A key feature of historical institutionalism is that it views institutions as sites and focus of power struggles over material interests such as oil. According to Immergut (1998, 20), institutions act as 'filters' for "the construction of interests" by "selectively favoring particular interpretations either of the goals toward which political actors strive or of the best means to achieve these ends." Mahoney (2000) refers to this function as the power-based logic of institutional reproduction and change, keeping in mind that agents assert their interest in preserving or changing a particular institutional arrangement by recoursing to the use of power. Thus, historical institutionalism emphasizes "the ways institutions structure the relations of power among contending groups in society, and especially the focus on the process of politics and policy-making within any given institutional parameters" (Thelen and Steinmo 1992, 7).

At the same time, when mediating interests and power struggles, institutions do not only perform the role of coordinating mechanisms that allow actors with shared interests to cooperate in order to obtain joint gains or a win-win outcome. Rather, institutions are also structures or rules that are laden or infused with asymmetric power relations, an attribute which makes them deeply political and highly contested: "Any given set of rules or expectations—formal or informal—that patterns action will have unequal implications for resource allocation, and clearly many formal institutions are specifically intended to distribute resources to particular kinds of actors and not to others" (Mahoney and Thelen 2010, 8). Such asymmetrical power relations in institutions present some actors—such as those representing, for example, the federal government—with political opportunities, while it serves to constrain other actors—such as those representing the provinces, or vice versa. However, though institutions can shape the strategies of the participants in these struggles, these institutions "are themselves also the outcome (conscious or unintended) of deliberate political strategies of political conflict and of choice" (Thelen and Steinmo 1992, 10).

From the perspective of historical institutionalism, endogenous changes can take place within institutions as a result of the "ongoing political contestation" (Thelen 2004, 290-291) or the power struggle between those who challenge the status quo and those who seek to protect it (Mahoney and Thelen, 2010, 8; Mahoney, 2000). This understanding of the operation and development of institutions as asymmetrical is key to this study, which examines the competition between constitutionally-empowered orders of government over scarce and geographically unevenly distributed oil resources/revenues.

As Broschek (2015) reminds us, the allocation of competences in federations between federal and state/provincial governments creates different kinds of rights and power resources—not available to constituent units in unitary countries—upon which these orders of governments draw in order to act in policy, political, or fiscal matters. Broadly speaking, the distribution patterns of authority in federations can either be tilted towards more centralization, in which case, the federal level is assigned with important jurisdictions; or greater decentralization, in which case, the constituent units have more autonomous space for action. By institutionalizing specific pattern of authority relationships between territorially-defined tiers of government—centralization or decentralization—the constitutional allocation of competencies are laden with asymmetric power relations, and hence have inbuilt potential to generate conflict. Yet as stated in Chapter 2, we must look beyond constitutional rules to also examine how political actors operate the constitution in order to gain a better understanding of federalism.

3.5. Emphasis on Institutional Context

Another feature of historical institutionalism that is useful for this study is an emphasis on the causal role of contextual factors beyond institutions in politics. As noted by Thelen and Steinmo (1992, 13), though they "constrain and refract politics" and in the process leave "their imprints on political outcome," institutions "are never the cause of outcomes" (Thelen and Steinmo, 1992, 13). Thus, rather than attributing outcomes to institutions alone, historical institutionalists "tend to see complex configurations of factors as being causally significant" (Immergut 1998, 19). Commenting on this fact, Thelen and Steinmo (1992, 3) contend that "institutional analyses do not deny the broad political forces that animate various theories of politics. Instead they point to the ways institutions structure these battles and, in so doing, influence their outcomes."

Against this background, this study will show that while the constitutional allocation of powers over unevenly distributed oil resources structures the incentives of political actors representing various constitutionally-empowered governments, the incentives to action that institutionally-divided power provides are in turn shaped by the broader political, economic, and social conditions and pressures unique to the various federations. The study will identify these constellations of factors and will explain how they interact with particular configurations of federalism to generate particular conflict outcomes over time.

As Jan Erk (2008, 2012) notes, by examining the influence of these 'extra-institutional factors' such as what William Livingston refers to as diversities and conditions in 'federal society' in the success (or failure) of federalism, we can gain a better understanding of the promises and pitfalls of federalism. Thus, while the primary focus of this study is to examine the influence of federalism on conflict over oil, it is also the case that federalism may just be one of many factors, albeit a central one, influencing outcome.

To be sure, federalism, from the perspective of historical institutionalism, provides the framework for the expression and channelling of these extra-institutional pressures/factors, funnelling these demands towards particular kinds of behavior and incentives that may not be possible in unitary systems. However, we should also keep in mind the possibility that the causal arrows can also go both ways, with contextual factors shaping federal institutions, as much or even more than they are themselves shaped by federal institutions. Attention to this possibility is important because, as Thelen and Steinmo (1992, 11) noted, though institutions "can shape and constrain political strategies in important ways, they are themselves also the outcome (conscious or unintended) of deliberate political strategies, of conflict, and of choice." This project highlights this complex relationship, paying attention to the role of particular conditions or diversities in the societal milieu within which federal institutions operate in both countries, and examining whether and how they mitigate or reinforce the generation of conflict over oil.

3.6. Institutional Development as Long-Term Historical Processes

At the core of historical institutionalism is the claim that institutional development such as the formation and evolution of federal institutions and the conflict over institutional rules such as those over ownership, control, and revenues from oil takes place over an extended period of time and that unless researchers become attentive to these long term historical paths, we cannot fully understand the effects of institutions on political outcomes (Pierson 2004). As Thelen and Mahoney (2009, 7) noted, institutions are primarily "the political legacies of concrete historical struggles."

Historical institutionalism emphasises how temporality or contingent historical processes interact with institutional forces to shape the pattern of outcomes or changes in different policy domains. Institutions, in the view of Thelen (1999, 369) "emerged from and are embedded in concrete temporal processes." For the historical institutionalists, it is not enough that institutions matter; history also matters for institutions themselves (Hacker 2004; Pierson 2004; Streeck and Thelen 2005; Thelen 2004), as historical development can illuminate current politics and the nature and direction of institutional changes. The term coined by historical institutionalists to describe this process is path-dependency, which refers to "those historical sequences in which contingent events set in motion institutional patterns or event chains that have deterministic properties" (Mahoney 2000, 507). Path dependency helps explain how and why decisions and choices made early in a historical sequence become difficult to change later on,

creating self-reinforcing processes or 'lock-ins' that make the political cost of changing existing arrangements prohibitive (Pierson 2004). This process thus constrains the policy options available to policymakers (Hall and Taylor 1996; Katznelson 1997; Mahoney and Thelen 2010) or the scope of entrepreneurial politics that politicians may want to undertake and the strategies they may employ to change the status quo (Broschek 2012a). This study argues that the institutions of federalism in Canada and Nigeria "emerged from and are embedded in concrete temporal processes" (Thelen 1999, 369), that these temporal processes and the institutionalized commitments that grow out of them are self-reinforcing (Peters 1999; Thelen 1999), and that they crucially affect subsequent interactions between federalism and oil management and conflict.

A focus on path-dependent processes is important because, even though federalism is a flexible institution that is adept at adapting to change, specific institutional configurations over the jurisdictional structure of a federation or strategic choices made by policymakers become 'change-averse' once instituted, given the interlocking vetoes of institutional players, which make it difficult to alter the overall federal institutional framework (Papillon 2012b). Attentiveness to path-dependency also "helps us to understand the powerful inertia or 'stickiness' that characterizes many aspects of political development" such as "the enduring consequences that often stem from the emergence of particular institutional arrangements" (Pierson 2004, 11), such as federal institutional structure specifying the divisions of power and informal rules about centralization and decentralization. Finally, path-dependency is an appealing concept for analyzing and interpreting the central role of "power in social relations by showing how inequities of power, perhaps modest initially, can be reinforced over time and often come to be deeply embedded in organizations and dominant modes of political action and understanding, as well as in institutional arrangements" (Pierson 2004, 11).

This study uses three basic elements of historical institutionalism to examine how historical processes can affect political outcome: historical origin, timing/sequence, and critical junctures. First, historical institutionalism emphasizes how the historical origin of institutions, often generated through contingency or chance events but not precluding purposive action, shape subsequent policy and political processes in ways that are often difficult to reverse (Broschek 2012c; Tillin 2015). A key initial condition that is relevant for this study is the origin of federal institutions in Canada and Nigeria, and the constitutional allocation of control over oil between the two orders of government in each country. In relation to the origin of these federations, several scholars have pointed out the impact of the nature of the formation of federation on their subsequent development, adjustments, successes, and challenges (Franck 1968; McGarrry and O'Leary 2005; Riker 1964; Stepan 1999; Wheare 1963). For instance, Alfred Stepan (1999) characterized federations into three types, which he described as coming together, holding together, and putting together. The 'coming together' federations are those that emerged from a 'federal bargain' or consensual agreement between relatively independent units. Some examples of this type include the

United States, Switzerland, and Australia. 'Holding together' federations are federations that are created through devolution of power from previously unitary states to prevent disintegration arising from deep ethnic divisions. Some examples of this type are India, Belgium, and Spain. Finally, 'putting together' federations are those that are created via coercion by a nondemocratic centralizing power (Stepan 1999).

The federations of Canada and Nigeria have similar, yet different, historical origins. Generally, Canada combines elements of both 'coming together' and 'holding together' federations, having emerged from a combination of disaggregation or devolution from the previously single unitary Province of Canada, which led to the creation of the two new provinces of Ontario and Québec; and aggregation or voluntary accretion of the previously separate colonies of New Brunswick and Nova Scotia as provinces of the new federation in 1867 (Watts 2008, 65). After Confederation in 1867, devolutionary dynamics also continued in Canada with the creation of Manitoba, Alberta, and Saskatchewan in 1870 and 1905, respectively, from Rupert's Land, the area purchased by Canada from the Hudson's Bay Company, and the North-Western Territory (later North-West Territories) bequeathed to it by the United Kingdom. The aggregation process was also furthered with the coming together or joining of the British colonies of British Columbia and Prince Edward Island to Confederation in 1871 and 1873, respectively, as well as that of the Dominion of Newfoundland and its dependency, Labrador, which joined the Canadian federation in 1949. By comparison, Nigeria is a classic 'holding together' federation, having emerged from the disaggregation or devolution of previous unitary colonial and postcolonial state arrangements (Suberu 2004; Watts 2008) largely as a way of managing ethnic tensions. The original Northern, Eastern, and Western regions created at Nigeria's federalization in 1954, the creation of the Mid-Western region in 1963, and the subsequent state creations in 1967, 1976, 1987, 1991, and 1996, bringing the number of states to 36, were all achieved via devolutionary processes. It is therefore expected that these distinct federal origins would generate varying adjustment patterns and, hence, conflicts in these two federations. While McGarry and O'Leary (2005) noted that a multinational federation is more likely to be stable if it emerged from voluntary 'coming together' or 'holding together' processes (instead of being forcefully or coercively constructed), the foundational act of cooperation that underlies the formation of 'coming together' federations may promote traditions of accommodation in these federations more than in the 'holding together' and 'putting together' federations. In the latter two types of federations, and especially in the last type of federation, foundational acts of cooperation are lacking, and the disaggregative social fissures inherent in the society that necessitated the adoption of federalism in the first place are expected to be further sharpened as political development and mobilization progress. I will examine the particular role these different federal origins play in the shaping the bargaining strength and patterns of alignments and cooperation between the federations' constituent units and the impact of these interactions on the generation and management of conflict over oil.

A second path-dependent condition relevant to this study is the timing of the discovery of oil in each country vis-à-vis the founding of each respective federation. As Pierson (2004, 11) emphasizes, "the timing and sequence of particular events or processes can matter a great deal" in the understanding of outcomes across a number of countries, because "settings where event A precedes event B will generate different outcomes than one where that ordering is reversed." In Canada, a mature federation, the allocation of control over oil to provinces was established in the 1867 Constitution Act when resources (first discovered in 1858, but first discovered in commercial quantities in 1947) were of insignificant importance or were largely of local interest (Anderson 2012b, 376). Subsequent attempts to alter this constitutional arrangement as resources became increasingly important (such as the National Energy Policy of 1980) were fiercely resisted by provincial governments, especially in Alberta. Earlier in their historical evolution, the Prairie Provinces used the institutional safeguards entrenched in the Constitution Act of 1867, which vested ownership of natural resources in the original provinces of the confederation, to resist attempts by the federal government to withhold this right from them (in order to secure funds for colonization and railway building) when they joined the confederation later in 1870 (Manitoba) and 1905 (Alberta and Saskatchewan), until these rights were restored in 1930 (Thompson 1999). In these two examples, early institutional architecture influenced later development in ways that were difficult to reverse, structuring the incentives of self-interested provincial actors to defend their own interests and resist what they believed was the federal government's encroachment on their constitutional powers.

In Nigeria, unlike in Canada, a federal regime emerged with a "twentieth century constitution" (Watts 2008, 98) instituted in 1954. The discovery of oil in commercial quantities in 1956 not only coincided with this modern history of the country as a federation, but also coincided with the period of increasing importance of oil, which has become the world's leading source of energy since the mid-1950s (Institute for Energy Research, n.d.). Given the importance of oil during this period, the sector evolved in a way that eventually reproduced the ownership and regulatory rights which was vested earlier vested in the central government during the state formation (pre-federal) era.

This study will argue, as do the historical institutionalists, that the self-reinforcing processes of the earlier constitutional choices concerning oil in Canada and Nigeria have implications for political contestations. The consequences of these early choices place some actors at an advantage while disempowering other actors, by allowing the former to use their advantageous position to benefit from the institution and further consolidate their powers as time passes, using institutional resources earlier conferred on them (Mahoney 2000). However, while the beneficiaries of the status quo will struggle to defend their privileged position, they are often challenged by those who seek to change the status quo. Such push and pull between advantaged and disadvantaged political actors can lead over time to either incremental institutional change or reproduction. This study examines various incentives for conflict that

may be generated by different dynamics of the formal rules regarding the timing or sequence of the emergence of oil vis-à-vis the emergence of the federation and the political opportunity a particular configuration provides for the staking of claims by political elites.

Besides initial conditions and timing, a third factor in path-dependency is the more radical, but often exogenous, institutional change that historical institutionalists refer to as 'critical junctures.' Critical junctures are brief historical moments of momentous institutional development, occurring infrequently, which disrupt or punctuate political development, relax the structural constraints for political action, heighten the possible occurrence of contingent events, and significantly open up the range of permissive choices and scope of action available to political actors (Capoccia and Kelemen 2007). Such 'punctuated equilibrium' (Krasner 1984) leads to the establishment of a new stasis, characterized by relatively long periods of institutional stability and reproduction, during which incremental self-reinforcing 'positive feedback' or 'increasing return' path-dependent processes occur (Pierson 2000, 252; Capoccia and Kelemen 2007). "Junctures," according to Paul Pierson (2004, 135) are "'critical' because they place institutional arrangements on paths or trajectories, which are then very difficult to alter."[24]

A critical juncture, as Collier and Collier (1991, 29) note, "typically occurs in distinct ways in different countries" and "produce[s] distinct legacies." It is expected that different critical junctures in Canada and Nigeria will produce different degrees of impact in authority relations and power configurations over oil in these federations. Critical junctures such as the world energy price crises of the 1970s and 1980s and the ensuing National Energy Program in Canada, the secessionist civil war of 1967-1970 in Nigeria, Supreme Courts' verdicts on 'ownership' of offshore oil in both federations, and founding and key constitutional 'moments' in these countries, are examined here to identify the impact of the choices/decisions made by political actors during these 'turning points' on (existing) constitutional arrangements and rules governing oil (for instance, whether they reinforce or change existing institutional patterns), and the different incentives or constraints on conflict and management that are produced by these distinct adjustment patterns.

A major criticism pf historical institutionalism is that it does not give serious attention to the concept of change, but rather emphasizes institutional statics or continuity. As claimed by Guy Peters, "Historical Institutionalism is not a fertile source of explanations for change in organizations and institutions" (Peters 1999, 70). Bo Rothstein describes this as "the weakest and most difficult point in institutionalist analysis" (1996, 153). A corollary criticism is that in the few instances when it does account for change,

[24] Yet, though critical junctures can lead to change, they do not always do so: they may also lead to a "re-equilibrium of an institution," in which the institution is restored to the pre-critical juncture status quo (Capoccia and Kelemen 2007, 352). In other words, critical junctures can also result in no changes or "near misses" (Capoccia and Kelemen 2007, 352).

these changes involve periodic punctuations following critical junctures from exogenous sources such as external shocks or crises. Accordingly, historical institutionalism, critics argue, can hardly account for endogenous sources of changes, and in turn, the role of agency, including actors' interests, cognition and ideas in shaping exogenous institutional changes (Mahoney and Thelen 2010; Peters et al. 2005; Schmidt 2010).

As I showed in Section 3 (1) above, I have demonstrated awareness of this criticism and this awareness is reflected in the central consideration I give to actor's interests and ideas in my historical institutionalism framework. Seen from this perspective, history matters, but history alone cannot sufficiently account for institutional development and its impact on political outcome such as oil conflict; the role of agency in shaping path-dependent historical events must also be given central importance (Katznelson and Weingast 2005; Lieberman 2002; Steinmo 2008). This understanding of institutional development leads to another important corrective to the literature on historical institutionalism, which is attentiveness to endogenous sources of institutional change (Capoccia 2016) in addition to exogenous change through such mechanisms as critical junctures, which is believed to foster the environment for the radical rupturing of existing institutional arrangements.

Scholars have advanced the theoretical understanding of institutions development over time through incremental endogenous institutional change (Hacker 2004; Hacker, Pierson, and Thelen 2015; Mahoney and Thelen 2009; Lieberman 2002; Streeck and Thelen 2005; Thelen 2004), transcending path-dependent models of institutional development which views institutional change only as "abrupt and discontinuous, characterized by the breakdown of one equilibrium or set of institutions and practices and its replacement with another" while ignoring a variety of changes that cannot be "comfortably characterized in terms of wholesale breakdown or collapse" (Thelen 2010, 45). Given that institutions are "deeply political and contested" structures "underpinned by power politics and fraught with distributional implications" (Thelen 2010, 54) and hence "the object of strategic action" (Hall 2010, 204), incremental endogenous changes can take place, for instance when actors or coalition of actors engage in political conflict and struggles over formal institutional rules such as those allocating policy and fiscal power over oil. Such conflict can arise from tension (O'Mahoney 2014) or gaps (Capoccia 2016) in formal institutional rules themselves due to ambiguities, inconsistencies, or inadequacies (O'Mahoney 2014) or non-compliance with these rules, through reinterpretation or deliberate violations of the rules, which spiral conflicts over not just how these rules should be applied (O'Mahoney 2014) but broader disputes over what form these institutions should assume, they role the should play, the prominence they should be given (Capoccia 2016), and the scope and pace of institutional change (Broschek 2014). The contestations over institutional rule can lead different kinds of gradual endogenous institutional changes such as the "creeping changes" that take place at the "formal institutional level," when "significant shifts occur under the veneer of high levels of formal stability" when "institutions are

'hollowed out' through defection, or when, in response to demands made on them, "institutions are subtly redirected to serve purposes that are very distant from their original aims" (Thelen 2010, 45). Capoccia (2016, 1069) argues that while most mechanisms of endogenous institutional change emphasizes the transformative role of social and political interactions on institutions, equal attention must also be given to the causal roles of institutions themselves, specifically their role in structuring the interactional processes through which " they themselves change or persist."

Other ways in which endogenous change takes place include friction between institutions' ideational and formal rule layers (Lieberman 2002) or conflict between different kinds of ideas such as between federal principles of shared rule and self-rule. While all these institutional changes may not involve the radical replacement of existing institutional forms, changes nevertheless take place and these changes can be categorized as transformative changes just like radical changes through exogenous means, even though they may not register as such. As Mahoney and Thelen noted:

> Once created, institutions often change in subtle and gradual ways over time. Although less dramatic than abrupt and wholesale transformations, these slow and piecemeal changes can be equally consequential for patterning human behavior and for shaping substantive political outcomes. (2010, 1)

My study examines both exogenous and endogenous institutional changes and their influences on oil conflict, pointing to the role of critical junctures and path-dependent processes as well as the role of (changing) actors' interests, coalition, and ideas in shaping exogenous sources of change such as critical junctures (Capoccia and Kelemen 2007) or pressures from 'federal society,' and endogenous ones such as contestations over institutional rules allocating power over oil.

3.7. Conclusion

To explain how federalism affects oil conflict dynamics, this study draws on insights from historical institutionalism. As a subset of the broad category of new institutionalism, historical institutionalism emphasizes the role of institutions in structuring political behaviour and strategy, and hence, political outcomes (Steinmo 2008). However, historical institutionalism is distinct and a better fit for this study in that, unlike other new institutionalisms, it is rooted in the ambition to offer eclectic explanation and it is particularly sensitive to the temporal dimension of institutional development and the impact of this development on the (re)distributive processes over institutional rules (Hall and Taylor 1996; Immergut 1998; Thelen 1999), such as conflict over the rule allocating power over natural resources. Accordingly, historical institutionalism provides the overarching framework and tools to examine the "different aspects of federal dynamics that so far tend to be tackled in rather isolated" manner in the literature

(Broschek 2012b, 1), as well as the formation and evolution of federal states over an extended period of time and the effect of different historical paths, for example divergent pattern of federal institutional formation and development (continuity and change) on political outcomes. The next chapter examines the historical development of Canada and Nigeria's federal institutional arrangements and the place of oil in it.

CHAPTER 4

FEDERALISM AND OIL CONFLICT IN CANADA

4.1. Introduction

This chapter and the next one present a process tracing of the institutional design and historical development of the oil and gas sectors in Canada and Nigeria, specifying the constitutional arrangements over the industry, the regional structure of resources, and key demographics. These issues will be presented with emphasis on the interaction of federalism and oil resource ownership conflict, control, management, and regulation of oil resources, and revenue sharing, particularly the interaction of federalism and conflict over intergovernmental fiscal relations in Canada and Nigeria, and the role of oil in this interaction.

4.2. Evolution of the Canadian Federation

Canada is a federation of ten provinces and three territories. Though it first became a federation in 1867, responsible governments had existed in the provinces that formed Canada prior to that, with some having enjoyed such rights for almost two decades before Confederation (Careless 2006; Vipond 1991).

The country now known as Canada was first colonized by the French. However, "Prior to French colonization of North America in 1608, the territory of Canada had been occupied for several thousand years by roughly 500,000 Aboriginals from various historical and linguistic nations" (Brouillet 2017, 137). The Seven Years' Wars leading to the Treaty of Paris of 1763 ceded part of New France, as the French holdings in Canada were known between 1608 and 1759, to Britain (Pomfret 1981). This in turn led to the creation of the Province of Quebec, from which the Province of Upper Canada (present-day Ontario) was created through the Constitutional Act of 1791. The Province of Quebec became known as Lower Canada, and the Province of Upper Canada simply as Upper Canada; the former had a majority French-speaking population and the latter a majority English-speaking population. Both British colonies were merged through the Act of Union 1840, which came into effect in 1841, to form the United Province of Canada. Under this arrangement, Lower Canada and Upper Canada assumed the respective names Canada East and Canada West, and at Confederation in 1867, they became the provinces of Quebec and Ontario (Beck 2006).

The adoption of Confederation in 1867 was in large part a compromise solution to reconcile the cultural, linguistic, and religious tensions between the two Canadas, as well as their different visions of federalism. The particular version of federalism adopted during this time was a centralized federation reflecting British influence, the perception of the pernicious role decentralized federalism played in the American Civil War, and the power relations among the uniting provinces. At this time, power was tilted

in favour of Canada West, which sought a strong central government in which it would be dominant (Conway 2004; Smith 2004; Smith 1991).

Confederation was driven not only by cultural difficulties between French Canada East and English Canada West, but also by economic considerations. The 1846 repeal of the British Corn Act, which offered protective tariffs and preferential treatment for Canada's staple exports, especially wheat and timber, into the UK, and its replacement with free trade, were key reasons for Confederation, as were the 1849 repeal of the Navigation Acts that protected Canada's shipping industry, and the abolition in 1865 of the 1854 Reciprocity Treaty between Great Britain and the US, which withdrew mercantile bond with the UK and spurred the British North American provinces and colonies to find alternative trade pathways (Conway 2004, 41-42). The solution to Canada's recovery following these events hinged on westward expansion, east-west transcontinental railways, and industrialization through protective tariffs. The Intercolonial Reciprocity Agreement of 1850 was an important step toward Confederation and toward achieving some of these proposals. Under this agreement, the colonies of Canada, New Brunswick, Nova Scotia, and Prince Edward Island provided preferential duties to the products of the other colonies entering their territories, with this arrangement proving very beneficial, particularly to Canada West, even though this arrangement was threatened by the 1857 depression (Conway 2004). Meanwhile, both Canadian and American businesses criticized the Reciprocity Treaty, and with the end of the American Civil War, the protectionist North repealed the treaty in 1865 (Conway 2004). The repeal of the Reciprocity Treaty served as an added impetus to heighten the need for Confederation.

However, as Bélanger (2004) noted, the decisive trigger for the adoption of Confederation was the political implications of the tense relationship between the largely French-speaking Canada East and English-speaking Canada West, which were equally represented in the colonial parliament despite their differences in population. Equal representation and the requirement of the double-majority support of the two Canadas for passage of bills led to political stalemate and the inability of politicians to establish a government, a development exemplified by the rise and fall of thirteen governments within a period of eight years (Bélanger 2004). Though these crises of governability were common in the 1860s, it nevertheless came to head with the collapse, yet again, of the Conservative party government, under which a consensus was surprisingly reached for the setting up of a bipartisan committee. On the urgings of George Brown, one of Canada West's Reform party leaders, this committee was tasked with the aim of suggesting a compromise to the political deadlock; its report favoured a federative union of Canada or British North American colonies (Careless 2008). The defeat of the Liberal-Conservative government in June 1864 due to a confidence vote, the sixth government collapse in six years (Breton 2015), demonstrated the fragile nature of coexistence between Canada East and Canada West. This fragility convinced the politicians to form a governing coalition that could invest the parties in stabilizing the polity rather than seeing to its collapse (Careless 2008). The coalition of the Conservative and Reform

parties helped expedite the move toward Confederation, a significant development when one remembers that George Brown's initial suggestion of federalism had been rejected in 1860, four years before the bipartisan committee's suggestion (Careless 2008). Meanwhile, in 1864 the British Maritime colonies themselves initiated moves toward forming a federation of Maritime provinces, and agreed to meet in Charlottetown in September of that year to start the process for a wider federation of British North American colonies (Breton 2015).

Two conferences were held in Charlottetown in September 1864 and Quebec in October 1864, which discussed the terms of the proposed union, with the 72 resolutions adopted at the Quebec conference forming the Canadian constitution then known as the British North America Act. The constitution was voted into law by the British Parliament in 1867, with Ontario, Quebec, Nova Scotia, and New Brunswick becoming the original provinces of the confederation when it was officially established in July of that year.

4.3. Federalism and Constitutional Provision over Natural Resources

The original constitutional basis for the distribution of power in Canada are Section 92 (5) of the British North America (BNA) Act, 1867 (now known as the Constitution Act, 1867)[25] which empowered the provincial legislatures of the original provinces that formed the Canadian federation—Canada (now Ontario and Quebec), Nova Scotia, and New Brunswick—to legislate on "management and sale of the public lands belonging to the province" and Section 109, which vested "all lands, mines, minerals, and royalties" in these provinces (British North America Act, 1867).

Suffice to say that the provincial government's powers over natural resources are also constrained by the federal government's own powers, not just over commerce and trade as noted above, but its power, specified in section 91 of the BNA Act 1867, to raise "money by any method of taxation." This means that unlike the provinces, which were restricted to raising direct taxes, the federal government had power to levy both direct and indirect taxes. The implication of this division of powers is that while the provinces are primarily responsible for the development and production of oil reserves, the processes guiding the sale and disposition of production flows are largely under federal jurisdiction (Ploudre 2012, 89). This arrangement is fraught with innate potential for conflict. Besides the potential for provinces to overstep their jurisdictional powers as noted above, the possibility of the federal government exercising its power or overextending it in the process of adjusting to changing circumstances, thereby bringing it into clash with provincial governments, is also present. While most times the federal government's power over the oil industries is moot, the assertion of this power, nevertheless, is seen by the provinces as an infringement when it occurs.

[25] For this thesis, the names BNA Act 1867 and Constitution Act 1867 are used interchangeably.

A major opportunity for the provinces to strengthen their powers over natural resources was provided by the patriation of the BNA Act 1867 in the 1980s. The 1982 amendment to the Constitutional Act 1867 (Section 92A) reaffirmed and strengthened the authority of each provincial legislature to make laws relating to the

(a) Exploration for non-renewable resources in the province;

(b) Development, conservation and management of non-renewable natural resources and forestry resources in the province, including laws in relation to the rate of primary production therefrom; and

(c) The regulation of interprovincial exports of primary products as long as such law does not provide for price or supply discrimination or conflict with the laws of the Parliament.

The development of Canada's oil industry is intricately interwoven with the political-constitutional history of the Prairie West, especially Alberta, where over 80 percent of the country's oil is produced. A closer look at this history is therefore important in understanding conflict dynamics over oil within the Canadian federal institutional framework.

Before the 1982 Amendment to the Constitution Act of 1867, another important legal provision regarding natural resources that is relevant for our case was the Natural Resources Transfer (or the Constitution) Act, 1930 which transferred natural resources and lands of the Prairie Provinces of Manitoba (Manitoba Natural Resources Act, 1930), Saskatchewan (Saskatchewan Natural Resources Act, 1930), and Alberta (Alberta Natural Resources Act, 1930), which were withheld by the federal government upon their creation as provinces in 1870 (Manitoba) and 1905 (Saskatchewan and Alberta). The Natural Resources Act 1930 is embodied in separate documents for the provinces: the Manitoba Natural Resources Act, 1930; the Saskatchewan Natural Resources Act, 1930; and the Alberta Natural Resources Act, 1930.

As stated previously, a central plank in the confederation move was westward expansion of settlement. Westward expansion served the strategic aim of stalling the security threats posed by the US to Canada, which included the Fenian (Irish-American) raids on Canada in 1866 and the US expansionist ambitions demonstrated by its purchase of Alaska from the Russian Empire for $7.2 million in March 1867 (Library of Congress 2017); it also provided a replacement for lost overseas markets. Seen from the latter perspective, Broodie (1997) argued that the expansion of the Prairie West was not carried out for its own sake, but to make these areas "Canada's frontier" in the confederation calculation of the Dominion government and the British.

According to this design, when the three Prairie West provinces were created, the lands and resources within their boundaries were retained by the federal government, unlike the four original provinces that formed Confederation in 1867 and the other provinces that joined afterwards: British Columbia (1971),

Prince Edward Island (1973), and Newfoundland (1949). Unlike these provinces, which had existed as autonomous colonies prior to joining Confederation, the Prairie provinces were created from two Dominion territories: Rupert's Land, the vast territory purchased from the Hudson's Bay Company (HBC) by Canada in 1869 for £300,000 million, and the North-Western Territories.[26]

The policy under which the federal government retained the resources of the Prairie provinces began with the creation of Manitoba in 1870, and then later Saskatchewan and Alberta, which were created as provinces from the North-West Territories in 1905. Following the conclusion of the sale of Rupert's Land to Canada on March 20, 1869, Canada could not formally take full possession of the territory until July 1870, due to opposition from the inhabitants of Red River Colony the Métis and settlers led by Louis Riel.[27] The Red River inhabitants protested their annexation to Canada without their consent, resisted the attempt to hand them "over like a flock of sheep," to use Prime Minister Macdonald's words, to Canada, set up a provisional government with Riel as the head, and demanded control of lands and resources and provincial status like the original provinces at Confederation (CBC 2001). In several Bills of Rights, the Riel-led resistance group indicated that the guarantee of resources and lands was a major demand that must be met before they would agree to their annexation to Canada (Martin 1920; Janigan 2012).

The insurrection eventually led to a compromise in the creation of Manitoba in 1870. However, the Manitoba victory proved pyrrhic for the people of the Red River, as the Dominion government held onto the lands and minerals of the province. It was not until 35 years after the creation of Manitoba that Alberta and Saskatchewan would be created. However, as in the case of Manitoba, the Acts through which Alberta and Saskatchewan were created in 1905 as provinces also retained the provinces' lands and minerals for the federal government. For instance, Section 21 of the Alberta Act 1905 declared that "All Crown lands, mines and minerals and royalties incident thereto, and the interest of the Crown in the waters within the province under The North-west Irrigation Act, 1898, shall continue to be vested in the Crown and administered by the Government of Canada for the purposes of Canada" (Library and Archives Canada 2005). However, to make this provision attractive to the citizens, the federal government agreed to provide an annual sum, based on population, to compensate for depriving the province of its public land as a source of revenue. The 1905 annual sum for an estimated 250,000 Alberta citizens was $375,000 (Library and Archives Canada 2005). In addition, the federal government also

[26] With the formal transfer of these territories to Canada by Great Britain via the Imperial Order-in-Council of June 23rd, 1870, they became known as North-West Territories (Hall 2006; Prince of Wales Northern Heritage Centre 2017).

[27] The inhabitants of the Red River Colony were about 12,000 by 1869 (The Louis Riel Institute 2015).

promised to pay an annual allowance of $93,750 in lieu of land for the construction of public buildings for 5 years, beginning from the creation of the province (Library and Archives Canada 2005).

With the retaining of the land and resources of Manitoba and the northwestern territories, the policy to open up the northwest territory culminated in the 1879 National Policy of Macdonald's Conservative government, which linked settlement/development of prairie lands for agriculture with the imposition of higher tariffs on imported goods so as to protect Canadian manufacturers, and the construction of a transcontinental railway (Brodie 1997; Wilson 1974). Yet, as Wilson (1974, 158) noted, in its original design, "the programme of Western development had the primary aim of benefitting the financial and commercial community; the development of western agriculture was, in a sense, a byproduct of the cultivation of what was primarily a field of investment and a market for manufactured goods." After years of political protests and struggles, it would take 60 years after the creation of Manitoba and 25 years after the creation of Alberta and Saskatchewan before these provinces won back their resources, in a series of agreements that culminated in the British North America Act, 1930 (or the Natural Resources Transfer Agreements, NRTAs, 1930).

Janigan (2012, x, xi) argues that opposition to the transfer of the West's natural resources was not just from the federal government, but also from "the rest of Canada," even though she concedes that the struggle was far from being unidimensional as the disagreements between the provinces themselves and with the federal government witnessed shifting alliances. One major issue was the other provinces' contention that they had contributed the 300,000 pounds to purchase the territory, from which the western provinces were created, from the Hudson's Bay Company (Janigan 2012).

During World War I, the Prairie Provinces, like the country as a whole, faced monumental economic challenges. The Prairies demanded for resource control came to a head during the post-war Dominion-Provincial conference of 1918 (Janigan 2012). This meeting marked a turning point as provincial demands increased, with the provinces staking clearer claims for returns on resources as the war ended, in order to forestall further allocation/appropriation of land by the federal government for new settlement schemes (Janigan 2012, 7). The prospects that their lands could be further distributed to newcomers and war veterans without their control may have heightened their resolve to get these lands transferred as quickly as possible. The premiers of the three western provinces intensified their campaigns for control of their lands in order to "have the power to allocate their own lands on their own terms; and...to decide for themselves which firms got" natural resources permits and leases (Janigan 2012, 3-4). As Janigan (2012) aptly noted, even though commercially viable oil had not yet been discovered during this period, the enormous energy potential of the Prairie provinces was already inspiring optimism about the value of provincial control of their resources. At this time, there were indications of oil, particularly in Alberta, such as the oil seep discovered at Waterton, south of Calgary, in 1874, and small wells such as the

Cameron Creek well in 1902 and the Dingman No. 1 at Turner Valley in 1914, even though many of these wells proved unsuccessful in the long run.

The war created further awareness of, and unease among, the Prairie provinces regarding their resources being retained by Ottawa. Besides the need to overcome the economic decline that had increased during the war, there was also an acute sense during this period of the importance/potential of oil and gas as the "fuels of the 20th century" for use in powering some of the equipment used during the war, such as ships, planes, and motorcars (Janigan 2012, 11). A poignant underscore to this importance was the 1917 application by Shell Transport Company Ltd. to acquire exclusive rights over oil and gas in northern Alberta and the Northwest Territories, a request that the federal government ignored (Janigan 2012, 10-11). Demographic and socioeconomic development, particularly regarding immigration, also influenced the timing of and changes in the attitude of Alberta towards its resources. Immigration to the Prairies had been halted by the economic recession of 1913 and may have been worsened by the war. Janigan (2012) has noted the astounding pace of change in Alberta where, in a bid to provide for the massive influx of immigrants, the government of Arthur Sifton, who revived the province's campaign for the return of provincial lands and control of resources withheld by Ottawa, was spending almost three times the per capita amount of Quebec and Ontario on infrastructure. The return of resources would thus help the province continue its immigration policy and provide funds to help tackle associated infrastructural challenges. Immigration to the 'Last Best West,' which was part of the broader trend of immigration to Canada in an era described as "Canada's golden era of immigration" in the decade before World War I, increased from 73,000 in 1901 to 450,000 in 1914 (Jones 2006, 364). This transformation took place amidst increasing public debt, which rose from $1.2 million in 1908 to $56.2 million as a result of the province's investment in infrastructure to cater to the needs of the burgeoning number of immigrants and a depression that engulfed the province from 1912 until late in the war (Jones 2006, 380-81). The agricultural sector also struggled in 1923, as wheat prices plummeted from $2.31 per bushel in 1919 to 77 cents in 1922, and the coal mining industry was also in great difficulty. Imperial Oil's 1924 discovery known as Royalite 4, the main discovery after the short-lived 1914 Turner Valley discovery, and other discoveries helped Alberta oil production overtake that of Ontario by the end of the 1920s, making Alberta the "oil province" and heralding optimism that oil would serve as a viable alternative source of prosperity (Rennie 2006, 446). The case of the Prairie Provinces demonstrates how pressures from historical contingencies influenced provincial leaders to claim the rights of their resources.

In addition to the transfer of resource control back to the provinces, the Prairie Provinces also sought compensation for the decades of their lands and resources having been withheld and used by the federal government for its own nation-building purposes. Ottawa had actually been transferring some funds to the provinces, based on the Acts that created them, but it was clear that in the bleak post-war economy,

these provincial governments would require more compensation. In a joint letter to Prime Minister Robert Borden, the three Prairie provinces made the following demands:

> It has been between (sic) us to make to you, on behalf of the said provinces, the proposal that the financial terms already arranged between the provinces and the dominion as compensation for lands should stand as compensation for lands already alienated for the general benefit of Canada, and that all the lands remaining within the boundaries of the respective provinces, with all natural resources be transferred to the said province, the provinces accepting respectively the responsibility of administering the same. (cited in Janigan 2012)

Suffice to say that while, as Thomas Flagan and Mark Milke noted, the Natural Resource Transfer Agreement of 1930 can be described as "Alberta's real constitution," it was still an incomplete document with regard to control over natural resources. This is because even after these provinces won back their lands and resources in 1930, the federal government did not fully relinquish control over the Athabasca Oil Sands, which, as Chastko (2004) noted, did not occur until 1945. A clause was surreptitiously added to the Alberta Transfer Act that reserved the Athabasca oil sands for the federal government (Chastko 2004). The federal government's action was justified on the basis that tar sands from the area known as the Horse River reserve may be needed in the future for the paving of national parks (Sheppard 1989), which were also reserved for the federal government when the lands and resources were transferred to the Prairie provinces in 1930. To cement its intention, the federal government had leased out the rights to develop the Horse River reserve to Max Ball, an American investor who founded Canadian Northern Oil-Sand Products Ltd., which was renamed Abasand Oils Ltd. in 1935 (Chastko 2004). The federal government also justified its retaining jurisdiction over the oil sands with the need to conclude ongoing negotiations with Abasand Oils Ltd. (Sheppard 1989, 49). The Federal Mines Branch stated the motive for the retention of the Athabasca Oil Sands as follows:

> In regard to the tar sands you are no doubt aware that these were reserved for the Dominion at the time of the transfer of the Natural Resources to the Provinces, the intention being that the Department would arrange whereby at least a position of the products resulting from the mining operations on these deposits would be available for use in the development of the National Parks. If the Parks are not to benefit in this way then the original reason for the reservation of these tar sands areas in the Dominion would disappear. (cited in Parker and Tingley 1980)

It appears that during this period two sets of regimes governed oil in Alberta, with the province having ownership, control, and revenue jurisdiction over conventional onshore oil courtesy of the Constitution Act of 1930, while the unconventional oil sands, which were still undeveloped, fell under the jurisdiction of the federal government. The federal government sought to control and develop the oil sands, while the provincial government, still empowered by its exclusive power over natural resources, was carrying out its own development efforts by giving out its own leases and supporting research and development (Chastko 2004; Fergusson 1985; Parker and Tingley 1980; Sheppard 1989).

It should be mentioned that competing interests between the federal and Alberta governments had been present even before the transfer of resource control to the provincial government in 1930. The federal government had been interested in northern Alberta, particularly the Athabasca area (Chastko 2004), even before the Prairie provinces were created in 1905. In 1894, the federal government started drilling a well to "test the oil producing capacity of the bituminous sand, and underlying formations" (Parker and Tingley 1980, 6), based on the surveys that the Geographical Survey of Canada had previously conducted in the area. It withdrew the leases on unleased lands and imposed stringent regulations requiring future lessees to show "a feasible process for working the bituminous sands to qualify for a lease" (Parker and Tingley 1980, 8). The federal government's efforts in Northern Alberta were contested by the government of Alberta, which responded by passing a resolution in 1919 requesting Ottawa to stop granting leases pending the completion of negotiations for transfer of resources to the provinces (Parker and Tingley 1980). To demonstrate its determination not to allow the federal government's effort to pass without contest, the Alberta government set up its own research organ for the oil sands, the Scientific and Industrial Research Council of Alberta, in 1920; based on the recommendation of the council, the province also drilled two wells in 1921-23 to test for the availability of bed salts (Parker and Tingley 1980, 18).

Thus, even before the natural resources transfer of 1930, the provincial and federal governments staked interest through various research projects and processes. The Alberta effort was led by the University of Alberta, under the presidency of Henry Marshall Tory, which conducted its own research and supervised the provincial government-sponsored agency, the Scientific and Industrial Research Council of Alberta, later renamed the Alberta Research Council; meanwhile, the Mines Branch coordinated research for the federal government (Chastko 2004; Ferguson 1975; Parker and Tingley 1980). These different research efforts were driven by, and in turn led to, divergent understanding of the purpose and pace of oil-sands commercial development. The federal government advocated a slow development process, aimed primarily at production of tar as road paving material, while the provincial government focused on faster development, with an eye on the use of oil as an energy resource (Chastko 2004; Parker and Tingley 1980). The federal and provincial governments reached an agreement to build a separation plant in the oil sands, and the Bituminous Sands Administrative Committee (BSAC) was established to coordinate joint efforts. Responsibilities were split between the competing interests, with "the investigation of method of mining" allocated to the federal Department of Mines while the Alberta Research Council was allocated the task of investigating "the processes for…separating …bitumen from the sands" (cited in Sheppard 1989, 40).

In 1945, after operating for about 15 years without success in producing oil, Abasand Oils Ltd. folded after suffering its second fire outbreak, which completely destroyed the plant (Alberta Culture and Tourism 2017a). The closure of Abasand demonstrated the federal government's inability to successfully

develop the oil sands (Parker and Tingley 1980). The federal government also claimed World War II as justification for its continuing control over the oil sands after having taken over the operations of Abasand in 1943, an intervention which William Fallow, Alberta's Minister of Public Works, described as a "fiasco" due to the lack of progress amidst huge financial investment (Alberta Culture and Tourism 2017b). These events, and the 1947 Leduc discovery, which cemented the competitive edge of conventional oil over synthetic oil, eventually led to the informal withdrawal of the federal government from the oil sands and Alberta's effective assumption of primary responsibility in the field (Parker and Tingley 1980), even though Alberta was already initiating efforts to build its own pilot plant for separating oil from oil sands at Bitumount, which was completed in 1949 (Sheppard 1989). Sheppard (1989, 89) describes this feat as "a major turning point in the history of the oil sands and marks the time at which the oil sands joined the mainstream of petroleum technology and history."

4.4. Canadian Oil in the National and Global Contexts

Natural resources are important to the economic security of Canada. In a keynote address at the 2012 Energy and Mines Ministers Conference, Joe Oliver, the then Canadian Natural Resources Minister, described natural resources as "a thread woven through every part of our economy and society" and "a defining feature of Canada — part of our national DNA and a legacy for all Canadians" (Oliver 2012).

The oil and gas sector forms an important part of Canada's natural resources development. In 2014, Canada produced almost about 4.4 million barrels per day (bpd) of petroleum and other liquid (US Energy Information Administration, 2015). Canada has approximately 173 billion barrels of proven oil reserves, the third largest amount of proven reserves in the world after those of Saudi Arabia and Venezuela (US Energy Information Administration 2015).

Canada's major oil and gas-producing areas are the Western Canada Sedimentary Basin—Alberta, Saskatchewan and parts of British Columbia and Manitoba—and offshore eastern Canada, particularly Newfoundland and Nova Scotia (National Energy Board, 2017). Alberta's oil sands account for 98% of Canada's oil reserves, with production of 1.6 million barrels per day in 2011 (Government of Canada 2013). Alberta accounted for 74 percent and 71 percent of Canadian crude oil and natural gas, respectively, in 2011 (Alberta Government 2012). The comparative figure for 2015 was 80 percent crude oil and 68 percent natural gas (Alberta Government 2017). Offshore oil production in Newfoundland and Labrador account for approximately 10 percent of Canada's total crude oil production (U.S. Energy Information Administration 2012). Together, Alberta, Saskatchewan, and Newfoundland and Labrador account for over 96 percent of Canada's crude oil production (Natural Resources Canada 2016).

Oil accounted for 3.2% of Canada's GDP in 2008 and 20.5% of national exports (US Energy Information Administration 2012). Because oil rights belong to the provinces, the role of oil is greater in the provincial

economies than in the federal economy. Crude oil and gas account for 64.2 percent of Alberta's exports in 2011 (Alberta Government 2012, 11) while the GDP contribution of oil was 25 percent in Alberta and 28.4 per cent in Newfoundland and Labrador (Sorensen 2015; Newfoundland and Labrador Department of Finance 2015). Royalties from oil accounted for approximately 28 per cent of provincial government revenues in Newfoundland and Labrador during the 2013-14 fiscal year (Newfoundland and Labrador Department of Finance, 2015), and 21 per cent and 22 per cent for Alberta and Saskatchewan, respectively (Kneebone 2015).

Because most of Canada's oil is produced in Alberta, some scholars such as Urquhart (2010) have expressed concern about the high reliance on oil revenues in the provincial budget, with some of these scholars arguing that the province, in some ways, exhibits the features of a 'petro-state' (Adkin 2016) characterized by heady dependence on oil rather than taxation of citizens to meet government budgetary needs, and an attendant vulnerability to the boom and bust circles of oil. Although the provincial governments have repeatedly promised to diversify the economy away from its dependence on oil, this goal has remained largely unmet (Urquhart 2010). To be sure, diversification did occur in Alberta, especially during the oil booms of the 1970s and 1980s, but it was primarily a shift from conventional to unconventional oil rather than from oil to other wealth creation sectors. For example, the Lougheed government used revenues from conventional oil to develop the oil sands by creating the Alberta Oil Sands Technology and Research Authority (AOSTRA, later known as the Alberta Energy Research Institute [AERI]) and supporting companies operating in the unconventional oil field, including Encana and Syncrude (Kennedy-Glans 2016). Other non-oil investments, such as Pacific Western Airlines, "MagCan (a magnesium plant), Canadian Commercial Bank, Gainers (a meat packing plant) and NovaTel (the cellular subsidiary of Alberta Government Telephones)," have been described by Kennedy-Glans (2016) as "spectacular failures." As part of its Petrochemicals Diversification Program, the Notley government committed a $500 'royalty credit program' to support the building of a petrochemical industry in Alberta to convert such raw materials as protane and methane gas to end products such as fertilizer, detergents, toys, and other things (CBC News 2016). University of Calgary economist Trevor Tombe has likened this plan to "picking winners," which will be fruitless because it does not address the fundamental question of dependence on oil "royalty rollercoaster" (Lo 2016). It remains to be seen whether this plan will lead to a new path rather than one composed largely of rhetoric, weak commitments, or 'spectacular failures' of diversification.

A common characteristic of the geographic distribution of oil is its unevenness (Anderson 2012b). In Canada, the dominance of oil and gas in three Western provinces—Alberta, Saskatchewan, and British Columbia—and, to some extent, the Atlantic provinces of Newfoundland and Labrador and Nova Scotia increases their fiscal capacity in relation to the other provinces. However, Canada's varied and abundant natural resources have helped to mitigate conflicts, because like oil, these resources and their revenues

are owned and controlled by the provinces. Other provinces, such as Ontario and New Brunswick, do have modest oil and gas resources, but also enjoy diversified non-oil-based economies.

Besides serving as important revenue sources to producing provinces and enabling significant investments in social welfare and development, natural resources provide close to 1.6 million jobs directly and indirectly in Canada (Oliver 2012). To be sure, periods of increasing oil prices have provoked backlash in Ontario, Canada's manufacturing region, where politicians have argued that such increases in oil prices drive up the dollar and hence hurt exports of Ontario's manufactured goods (Spiro 2012). This dissatisfaction is tempered by the fact that Canada's manufacturing provinces also benefit from oil development in the Western provinces as they support activities for oil and gas extraction, especially in Alberta's oil sands (Arcand, Burt, and Crawford 2012). This forward and backward linkage between the oil and manufacturing industries also influence job creation. As noted by the Mining Association of Canada (2014, 23), "for each oil sands-related job created in Alberta, approximately one indirect job and one induced job will be created in the rest of Canada."

A major regional dimension of oil in Canada is the distinction between oil-producing and oil-consuming provinces. This means that although Canada is one of the world's top oil producers, it also imports crude oil. For example, in 2014, Canada imported an average of 634 thousand barrels per day of crude oil (National Energy Board 2014). The distinction between producing and consuming provinces can lead to conflict in situations such as increases in world oil prices, in which case the federal government activates its power over interprovincial and international trade and commerce in order to reconcile the interests of oil producers and consumers (Ploudre 2012, 89), as occurred during the oil price crises of the 1970s.

The international context of Canada's oil production is also a potential locus of conflict, as its neighbour, the United States, is the world's largest consumer of oil (Schaefer 2016) and the largest importer of Canadian oil. For instance, 97 percent of the 2.85 million barrels per day of crude produced in 2014 in Canada was exported to the US (Natural Resources Canada 2016), with Canadian exports accounting for 63 percent of US oil imports (consisting of 40 percent crude oil and 20 percent refined oil) in 2015 (Government of Canada 2017). These significant trade ties with the US and the dominance of the Canadian oil industry by American companies make US interests a key factor in intergovernmental and government-industry relations regarding oil.[28]

Another dimension of the relationship between federalism and oil conflicts, which is not the focus of this study, is with regard to Canada's Aboriginal peoples, who are a key plank of the country's complex

[28] This dominance is changing, as foreign, largely US, oil companies have been retreating from the Canadian oil industry especially since the downturn in oil prices of 2014, with one source—Wood Mackenzie data—estimating that, currently, major Canadian-based operators control about 52 per cent of total oilsands production (see Varcoe 2017).

multinational society. Canada began as a settler colony, in which the Aboriginal people were displaced by successive waves of immigration to the original provinces and westward expansion into the Prairies. Particularly with regard to resource exploitation, Burr (2005, 2006) has noted that the allocation of lands upon which the early oil boom in Ontario took place in Enniskillen Township and Petrolia was carried out by appropriating Aboriginal peoples' lands. Parlee (2015) wrote of similar trends of negative interactions between resource-extraction industries and Aboriginal people in the oil sands. The persistent opposition of Aboriginal people to the passage of oil pipelines through their communities can be understood against this historical background, and the desire and demands of Aboriginal people for a fair share of resource revenues further point to the impact of Canada's institutional arrangement and history on these groups of people. This is because, as Berdhal and Gibbins (2014, 3) noted, "with post-confederation agrarian settlement came a dramatic shift from economic codependence with aboriginal peoples in fur trade to an overwhelming interest in Aboriginal lands, and at best a passing interest in the welfare of the inhabitants of those lands." The institutional framework designed at Confederation precluded interests in Aboriginal issues, leading to a befuddling paradox: "while Aboriginal land was of foundational importance to the expansion of Canada, Aboriginal peoples at the time were seen as a hindrance than a building block" of Confederation (Berdhal and Gibbins 2014, 3).

This study recognizes the point Papillon (2012a) has made, that federalism significantly affects Aboriginal peoples in the Canadian political economy, including their ongoing clamour for fair oil revenue sharing, but focuses primarily on federal-provincial/state and interprovincial/interstate conflicts over oil because these units are the main constitutional partners in Canada and Nigeria, and they played the primary role in operating the federal institutional arrangements in both countries. The study further recognizes the influence of social pressure on governments at both the federal and provincial/state levels, though the social arena does exert more pressure on the formal operations of governments in some federations than in others. Thus, although the main focus of this study is the relationship between governments with regards to oil, it does acknowledge, where appropriate, the influence of social factors on intergovernmental relations concerning oil.

4.5. Fiscal Regimes Governing Oil Exploration and Production in Canada

Because constitutional power over oil in Canada is decentralized, the fiscal regimes in charge of oil revenue vary from province to province (Alberta Energy, 2011). Thus, this section uses the Alberta case as an example of oil fiscal regimes in Canada. Alberta Energy (2009) estimated that 19 percent of the minerals in Alberta are on non-Crown lands, which are owned by individuals, First Nations, and national parks who are charged a Freehold Mineral Tax (FMT) by the Alberta Government on the royalties they

collect on their mineral rights. This means that the Crown has the remaining 81 percent mineral rights,[29] with Alberta as owner; the provincial government collects royalties and other levies for resource development on behalf of the citizens of the province (Alberta Energy/Price Waterhouse Coopers 2009). The table below summarizes the different types and other relevant characteristics of oil fiscal regimes in Alberta.

Table 2: Alberta's Oil and Gas Fiscal Regime – Taxes, Royalties, and Fees

Levy	State	Description/ Calculation
Bonus Fees	Prior to production, acquiring resource rights	To acquire the rights to develop the resource, the company must place a bid through a competitive auction. Annual rights (per hectare) are leased to the highest bidder.
Land Rental Fees	Pre-production and production	A fixed fee per hectare of land is applied for oil and gas leases, both for conventional oil and gas and oil sands.
Production Royalties	Production applies to resource development of Crown lands	The value of revenue or net revenue is multiplied by the relevant royalty rate to determine the production royalty.
Corporate Income Tax (CIT)	Production, once taxable income is generated	Relevant CIT rates are multiplied by taxable income to determine federal and provincial CIT payable.
Freehold Mineral Tax (FMT)	Production for companies on non-crown land	Applies to developers on non-Crown land. The FMT rate is multiplied by the value of production to determine FMT payable.
Municipal Property Tax	Pre-production and production	Value of land multiplied by relevant mill rate to determine property tax bill.

Source: Alberta Energy /Price Waterhouse Coopers (2009).

At the beginning of oil production, there were no royalties paid to the government; instead, lands were purchased, with the landowner entitled to the subsurface minerals. When this system was changed, prospectors purchased mineral leases from the Dominion Government, which owned and controlled rights over natural resources belonging to the Prairie Provinces during this time (Breen 1993). Thus, the introduction of royalties by the provincial government in 1931 replaced a practice under which not only were royalties not paid, but the Dominion Government also incentivized producers or oil companies in

[29]This compares to British Columbia, where the Crown owns 100% of producing oil and gas rights (Alberta Energy, 2009).

order to encourage entrepreneurs to commit their money and resources into finding oil. A major mechanism for this process was the Petroleum Bounty Act of 1904, promulgated by the Wilfrid Laurier government, through which the federal government gave out a subsidy of "1.5 cents per gallon for oil produced anywhere in Canada" (Finch 2008). By the time the program ended in 1925, these subsidy payments or 'bounty' from the Department of Trade and Commerce amounted to more than $3 million (Finch 2008).

Following the return of its resources and land in 1930, Alberta assumed the rights to and control over royalties on oil and gas mining. In 1931, the United Farmers of Alberta government imposed a five-percent royalty charge on oil and gas produced in the province, with a proposal for a subsequent increase to 10 percent after January 1935 (Breen 1993, 652).

Currently, 25 percent of the net revenues of oil sands is paid as royalty (Lougheed 2012). However, it should be pointed out that according to the 1997 Oil Sands Generic Royalty Regime, the 25 percent of net revenues of project can only be collected as royalty after project 'payout' – that is, after deduction of construction and other project expenses such as research and development costs, and a return allowance – is achieved, and 1 percent royalty will be collected until then (Mitchell, Anderson, Kaga, and Eliot 1998). Expectedly, this incentive to oil companies has been criticized for its potential for suppressing the value of royalties received by government for over a long time (Carter and Zalik 2016).

Royalty reviews have taken place in Alberta over the years. Some of these reviews have generated fierce criticism for not setting rates high enough, for not increasing rates, or for reducing existing rates (Roy 2015). The perception that Alberta's royalty regime is rigged against the province and its citizens was most poignantly stated by William Hunter, the Chairman of the 2007 Alberta Royalty Review Panel:

> Albertans do not receive their fair share from energy development and they have not, in fact, been receiving their fair share for quite some time. Royalty rates and formulas have not kept pace with changes in the resource base, world energy markets and conditions in other energy-rich jurisdictions. (Alberta Royalty Review Panel, 2007, 4)

Royalty regimes reflect the political economy. In Canada, it would appear that the oil companies have, over time, evaded the imposition of higher royalties, leading to changes that are not as radical as citizens would want. The strength of oil companies in Canada can be explained by their early mover advantage compared to both the federal government and the provincial government. Private investors not only pioneered exploration of oil when it first began in Ontario, but also exerted an early influence on the oil industry in Alberta. This lead was complicated by lax regulation in the early period of the industry. While control over natural resources in the Prairie provinces had been vested in the federal government, the federal government seemed to have shirked its responsibility to develop and enforce robust regulations

for the industry, thereby encouraging the oil companies to operate largely based on self-regulation. While Alberta tried to regulate its oil industry before 1930, this did not actually work. It was not after the province had wrested control from the federal government that it was able to fully impose more stringent rules and regulations, and it was not surprising that the oil industry fought these efforts. With the Canadian oil industry dominated by US multinationals and imports, the economic and political power of the US has played an important role, consistently protecting and serving its interests using its leverage against the Canadian government.

The second channel through which oil companies maintain their interests is through its support for the province's long-ruling party. As Urquhart (2010) noted, the influence of oil companies on political funding served to entrench the Alberta Progressive Conservative party in power for over forty years, with a quid pro quo of easy access to government officials and royalty concessions for the oil companies. An egregious example often cited of the impact of 'Big Oil' on electoral outcome was the oil industry's redirection of campaign funds from its longtime benefactor, the Progressive Conservative party, to the upstart Wildrose Alliance as a way of showing its displeasure for the PCs and Premier Stelmach's support for royalty increases following the recommendation of the 2007 royalty review expert panel, which stated that Alberta was not getting its fair share from royalties (Urquhart 2010). While Premier Stelmach and the PC won the 2008 election, corporate campaign donations, largely from the oil patch, to the party had declined by 41 percent (Romanowska 2009) with part of this money redirected to the Wildrose, which had opposed royalty increase. The oil patch repeated this feat in 2011, when their donations increased Wildrose's finances from $230,000 in 2009 to $2.7 million in 2011, and helped the party staged an upset in the Spring 2012 election even though it was not enough to overturn the electoral hold of the Conservatives (Kleiss 2015).

Third, besides the legacy of history and the influence of campaign finances, another factor in the bargaining power of oil companies is their exploitation of the volatility of oil as a bargaining chip. The fact that oil is a commodity whose prices depend on contingency events beyond domestic controls offers oil companies considerable leverage in their negotiation of royalty rates, as governments would have to demonstrate sensitivity to these factors by lowering royalty rates as well. This is all the more significant in the case of the oil sands, which required large investments and which the government was determined to develop. Based on a simple law of supply and demand, expropriatory fiscal terms discourage investment and risk threats of oil companies to 'vote with their feet' by moving to more favorable business climes. For instance, it has been suggested that the shift from Crown agreements to the generic principle in Alberta's royalty regime was meant to remove uncertainty that hindered oil companies from investing in and developing the oil sands (Mitchell, Anderson, Kaga, and Eliot 1998). Also, while Stelmach's lack of vigorous commitment to implement the recommendation of the expert panel on royalty review has been described in some quarters as a retreat or rollback to mollify the oil patch,

which had reduced funding to the Alberta Progressive Conservatives (Urquhart 2010), other commentators have also noted that his action was influenced by the global recession of 2008, which led to an oil price slump and which constrained Stelmach's manoeuvrability regarding implementation of the royalty increase (Das 2016; Steward 2015). Thus, while the political economy of power relations between oil industry and governments, with this relationship exhibiting some differences, albeit modest, between different governments over time, is definitely an important factor that affects royalty regimes, historical contingencies that may strengthen or weaken government bargaining powers vis-à-vis the oil industry are also notable factors in this relationship. The NDP, which depends more on party contributors rather than corporate donors (Markusoff 2017), and hence could not be said to be beholden to corporate interest like the other parties, particularly the Tory and Wildrose, could not implement its pre-election pledge to revamp the royalty regime but instead provided drilling and production incentives to oil companies based on recommendation of the royalty review advisory panel. This turn of events shows that political campaign finance has little to do with this decision. The sustained period of declining oil prices during which the royalty review panel carried out its work with the recession continuing after the panel had submitted its report would have provided significant disincentives for consideration of royalty increase. The government's provision of incentives to stimulate drilling rather than increasing royalty was an appreciation of the oil price slump which Marg McCuaig-Boyd, Alberta's Energy Minister, described as "the biggest factor (depressing activity)" in the oil industry which has reduced royalty payment from about $9 billion in the 2014-15 budget to an estimate of about $1.4 billion in the 2016-17 budget (Cattaneo 2016).

4.6. Historical Evolution of Oil Development in Canada

4.6.1. Early Beginning

Evidence abounds that Aboriginal people of Canada had some experience with oil. In Western Canada, for example, it was documented that Aboriginal people used a "mixture of spruce gum and the tar-like residues from oil seeps and oil sands deposits" to seal or caulk their canoes, and records kept by Hudson's Bay Company's (HBC) fur traders show that as far back as 1714, Aboriginal people in Fort York (now Manitoba) had told James Knight, a HBC fur trader, about the use of oil in their communities (Canadian Centre for Energy Information, 2004, 13). Alexander Mackenzie, explorer and worker for the North West Company, also "found seeps of bitumen along the Athabasca River about 20 kilometers north of Fort McMurray, near the site of the current Suncor oil sands project" (Canadian Centre for Energy Information 2004, 13).

However, the first commercial oil discovery and refining in Canada began in 1858, when James Miller Williams struck oil while hand-digging gum beds in a property at Oil Springs in Enniskillen, in Lambton County, Ontario. Williams had bought the property from Charles Tripp and Henry Tripp, who established

the International Mining and Manufacturing Company in 1852 (May 1998). The company was incorporated in September 1854 by the then-Province of Canadian Parliament to prospect asphalt beds, oil and salt springs (Province of Canada 1854; May 1998). This oil find, later known as Williams No. 1 Well, is generally considered the beginning of North America's commercial oil industry (Canadian Centre for Energy Information 2004).

The spread of the news celebrating the discovery of the "bituminous or oleaginous spring" whose accidental discovery "will continue an almost inexhaustible source of wealth, yielding, at the lowest calculation, and with no greater flow than at present, not less than one thousand dollars per day of clear profit" (*Sarnia Observer*, cited in Burr 2006, 65-66) ignited speculative oil booms. However, the discovery did not last, and the site was soon abandoned for a more viable and much larger field at Petrolia in 1866. The Petrolia fields benefited from the construction of a railway between Petrolia and Wyoming, which made transportation of oil cheaper compared to the high cost of transporting oil from Oil Springs to the railways (Lambton County 2010). Previously, the high cost of transportation in the absence of a railway meant that refining was largely carried out around the producing wells in Oil Springs with simple and inefficient equipment and technology. Once oil production expanded to Petrolia, it became more economical to ship crude to more efficient refineries in Hamilton, London, and Sarnia. After Petrolia, the boom shifted to vicinities around Enniskillen, such as Bothwell in Kent County, leading to more speculation in land in these areas (Lambton County 2010). George Brown, one of Canada's leading Fathers of Confederation, added more land to his estate, after having previously acquired lands when Bothwell was connected to the railway (Careless 2003).[30] "The Bothwell pool was opened in 1864 but the shallow wells did not produce sufficient oil and were soon abandoned, although some production was subsequently revived" (Lambton County 2010, 13). Taken together, there emerged a thriving export from Ontario oil fields, with 60 percent of refined product from the region exported to Britain and Europe (Lambton County 2010). However, while modest production resumed again at Oil Springs in 1883, declining production and increasing populations led to the inability of Ontario's reserves and production to meet Canada's needs by 1900, forcing refineries to depend on imported crude from the US (Lambton County 2010). The Western sedimentary region later became the center of oil exploration in Canada beginning, especially, in the 1990s.

It was not after construction of the transcontinental railroad in late 1885, and especially after the economic depression of 1873-96 that created dire economic straits in Europe, that campaigns

[30] George Brown was to later acquire shares in Imperial Oil. Imperial Oil itself was formed by the merger of 16 Ontario producing and refining companies who were determined to fend off competitors such as John D. Rockefeller's Standard Oil Trust. However, Standard Oil Trust later acquired Imperial Oil and merged the company with other oil companies in Canada with which it was affiliated. Standard Oil Trust later became affiliated with Standard Oil of New Jersey, the forerunner of Exxon Corporation and currently ExxonMobil (Canadian Centre for Energy Information 2004).

encouraging immigration to Canada proceeded on an impressive state. Immigration was also fueled by soaring demand for Canadian foodstuffs, particularly hard wheat, as well as aggressive advertisements/promotions to attract immigrants from Europe who had been hit by the depression and a rising population to settle in the 'last best west' with the promise of "160 acres of free land for every settler" (Government of Canada, 2006). Of the more than 3 million people who migrated to Canada during the first wave of migration between 1896 and 1914, an overwhelming majority settled in Alberta and Saskatchewan (Janigan 2012, 8-9).

Natural gas was accidentally discovered in Alberta in 1883 by engineers of the Canadian Pacific Railway (CPR) who were looking for water in Medicine Hat (Breen 1993; Canadian Energy Information Centre 2004). The gas caused a fire that consumed their drilling rig, but in 1884, they dug another well closer to the first one, in which they discovered natural gas (Breen 1993). More gas was discovered on CPR lands in 1900 in Medicine Hat and 1908 in east Calgary with these discoveries developed as source of gas for home use (Breen 1993). An important discovery in Western Canada, which could be considered Alberta's first oil strike, at 'Oil City' near Waterton Lakes in 1902, was limited and did not sustain interest past 1905 (Breen 1993, 4).

A major discovery of natural gas was made on May 14, 1914 in Turner Valley. It was known as the Dingman No. 1 Well and pioneered by the Calgary Petroleum Products Company, founded by William Stewart Herron and other prominent Calgarians including future senator James Lougheed and future prime minister R.B. Bennett. The well has been described as "Western Canada's first commercial oilfield" and "the beginning of Alberta's first real oil boom" (Seskus 2014). However, the Turner Valley success was halted with the outbreak of World War I. During this period, "many of the nearly 500 oil companies that had arrived so suddenly now disappeared" and many Calgarians who bought these companies' stocks were left stranded (Seskus 2014). After the war, activities resumed and the prospects of oil becoming a vital resource brightened, driven in part by demands for oil for use in the burgeoning industrial mechanization and farming of the post-WWI era (Seskus 2014).

At Turner Valley, Imperial Oil (which bought the Calgary Petroleum Products Company and then changed its name to Royalite) invested heavily in the oilfield, and this proved a success with the discovery of Royalite No. 4 in 1924, which ushered in the beginning of Alberta's second boom (Seskus 2014; Alberta Community Development/Turner Valley Historical Society 1993). By 1929, when production declined as a result of the Great Depression, Royalite No. 4 "produced over 20 million cubic feet of wet gas and 500-600 barrels of naphtha (natural gasoline) daily" (Alberta Community Development/Turner Valley Historical Society, 1993). However, the determination of electrical engineer Robert Brown and newspaper publisher George Bell, who formed Turner Valley Royalties in 1934, led to the discovery of crude oil in 1936 after seven attempts. The discovery known as Turner Valley Royalties No. 1 led to Alberta's third oil boom (Alberta Community Development/Turner Valley Historical Society, 1993). After

the discovery of crude at Royalties No. 1, more drilling efforts in surrounding areas led to the discovery of crude in 1939 in the Millarvile area. The most significant find was the Home-Millarville No. 2 Well, which "became the most prolific oil well in the British Empire" (Seskus 2014) and by February 1943 was the "first well in Canada to produce one million barrels of oil" (Alberta Community Development/Turner Valley Historical Society, 1993).

A major challenge to the oil industry of the Prairie Provinces was regulation, complicated by the fact that while production was taking place in these provinces, control of these resources was then vested with the federal government, who had retained such control when these provinces were created. Originally, homesteaders who were allocated lands in the Prairie West were also entitled to mines and mineral rights, but this practice was reversed by a 1887 Order In Council that granted mines and minerals discovered in or after 1887 to the Crown in right of the federal government (Ballem 2008, 12). However, Breen (1993) notes that "only the most rudimentary guidelines governed the removal of minerals" and that anybody could "dig, burrow, blast and drill at will" for minerals after obtaining rights from the Crown, the mineral rights holder, represented at the time in the Prairie West by the Dominion government (4). On October 1, 1930, ownership and control of Crown lands was transferred from the federal to the provincial government (Breen 1993, 62). To anticipate this transfer, the Alberta government prepared legislations such as the 1926 draft of the Oil and Gas Wells Act. A revised form of this act became Alberta's law on conservation in March 1931, and it became the basis of several orders-in-council regarding specific regulations (Breen 1993, 69).

Clear evidence of collaboration between the federal and provincial governments was demonstrated with the official transfer of lands by federal government on October 1, 1930 and the transfer of official records by February, 1, 1931. The Petroleum and Natural Gas section staff of the Federal Department of Mines was transferred to the newly established Alberta Department of Lands and Mines (Breen 1993, 63). The implication of the transfer of this staff, as Breen (1993) further noted, was that it not only ensured a smooth interface between the old and new organizations, which helped preserve institutional memory and adjustment to the challenges of organizational change, but also ensured that Alberta would benefit from the staff's experience and skills.

After Alberta won its land and minerals rights from the federal government in 1930, the province started to assert its newly won constitutional authority to reverse the almost free-for-all petroleum exploration system previously in place under the federal government's watch, which was characterized by lack of robust regulation. As stated previously, the existing regulatory environment encouraged a winner-takes-all competition in which a landowner in "producing areas drilled frantically ...and then produce[d] to capacity" in order to forestall the capture of the oil and gas on his property by others and the attendant problems of "massive overproduction" and "tremendous waste" this unregulated system caused (Breen 1993, xii). Under this informal practice that conveyed "right to drill as one pleased," itself reinforced

by another informal practice known as “the Rule of Capture,” which was later given the validity of law by the Judicial Committee of the Privy Council in *Borys v. Canadian Pacific Railway and Imperial Oil Limited*, 1953 (Breen 1999, xii), the first producer to stake claim to and produce oil before others would become the owner of the oil well. This encouraged a deadly ‘race to the bottom’ to maximize production without consideration of production that was sustainable from either an economic or an environmental perspective (Breen 1993, xii).

Against this background, it appears that Alberta's first task as new owner of land and minerals was cut out for it from the very beginning: that of regulating the almost chaotic production practice to ensure conservation, curb waste, and maintain fair production and benefit sharing. However, the first attempt, the creation of the Turner Valley Gas Conservation Board (TVGCB) through the Turner Valley Gas Conservation Act in 1932, ran into hitch due to opposition from producers such as Spooner Oil Ltd. Spooner Oil challenged the constitutionality of the Turner Valley Gas Conservation Act and the TVGCB’s first regulation, General Order No. 1, which imposed limit on allowable daily gas production (Breen 1993) While the initial cases were decided in favour of the TVGCB at the Alberta lower court and the appellate division of Alberta’s Supreme Court, the Supreme Court of Canada ruled in favour of Spooner Oils (Breen 1993) (Breen, 1993). In its October 1933 judgement, the Supreme Court declared that Alberta could not apply its new regulatory rules retroactively to pre-existing leases that were agreed to between producers and the federal government prior to the transfer of resources to Alberta in 1930, and that doing so was in violation of Section 2 of the Natural Resources Transfer Agreement in which the respective Prairie provinces committed themselves to honouring previous contracts entered into by the federal government, though the Supreme Court justices agreed that TVGCB acted within the constitutional powers conferred on the province to regulate the oil industry (Breen 1993, 93). Hamstrung in its conservation efforts by preexisting federal government legislations, to which it was bound, the Alberta government asked the federal government for a legislation allowing transfer of powers. However, the federal government rejected this request (Breen 1993). The Supreme Court of Canada reversed the judgement of the Alberta appellate court, which stated that Alberta had competence to regulate. Instead, the Supreme Court agreed with the lessee that the regulation of the Turner Valley Gas Conservation Board to curb gas waste affected a preexisting agreement between the Dominion and the lessee, and hence was unconstitutional. After the legal setbacks, and the federal government’s refusal earlier to regulate for the industry regarding preexisting agreements, Alberta finally took on this responsibility in 1938 following the ratification of an amendment to the mineral resources transfer agreement by the federal government. This agreement enabled Alberta to strengthen the Oil and Gas Resources Conservation Act and carry out responsible regulation (Breen 1993, 654).

Having negotiated its right to regulating the oil industry with the federal government, Alberta established the Petroleum and Natural Gas Conservation Board (PNGCB) in 1938 to act as an industry regulator to

prevent waste and gas flaring in the Turner Valley (Breen 1993). With the creation of the PNGCB and regulatory competence resolved in its favor, Alberta began to establish a firmer foothold over its oil and gas industry, which was going through its formative period of development, by developing new legislative rules and oversights (several bills were initiated for the industry) and regulatory initiatives and enforcement of rules.[31] Some of the conservation techniques adopted by the Board included placing restriction on production rates through "prorating of production" or "setting production quotas for hundreds of pools and thousands of wells" (Breen 1993, xliii).[32] However, this technique created its own questions as to how prorating should be carried out. For example, there was the problem of measuring "each producer's fair share" of production, especially given that "no two oil pools have exactly the same physical characteristics and they produce a variety of crude oils" from heavy to light and medium crude oil, which are not interchangeable in the market (Breen 1993, xliii-xliv). An additional challenge was that of balancing private property with public regulation. Other techniques devised included increasing spacing between wells from 20 to 40 acres (Finch 2008), so that one well was allowed for every 40 acres (Breen 1993, xlvii), passing legislation to deter gas flaring, developing reservoirs as "single producing unit[s]" in order to maintain effective reservoir pressure (Breen 1993, xlvii).

A major problem that arose from the heavy gas produced from Royalite No. 4 and other wells in Turner Valley was the lack of capacity for storing the excess gas, which could not be sold. Such surplus gas was usually flared by burning "in a coulee that came to be known as Hell's Half Acre," which created the urgent need for conservation measures in the Turner Valley (Finch 1984, 72). For instance, as Finch (2008) noted, citing a report by Calgary's Daily Oil Bulletin, in order to produce 1,800 barrels of petroleum liquids, about 200 million cubic feet of gas were wasted in daily production at 75 wet gas wells in the Turner Valley oilfield. Not only did flaring cause health hazards, but it was also economically wasteful. For instance, Finch (2008) cited a calculation in a 1939 *Macleans'* magazine article that revealed "that $10 of natural gas was being flared in order to produce $1.20 of oil." Indeed, Breen has

[31] Alberta had no choice but to aggressively develop its mining sector and diversify its economy away from agriculture, which it had relied for almost half of government revenues because of retention of its natural resources by the federal government. These resources were returned in the middle of the Great Depression, which was followed by a drought, which combined to wreak devastation on economic growth and agricultural production. The misfortunes of the 1930s that won the decade the name of "dirty thirties" (Dyck 2005) left in their wake unemployment, mounting debt, and despondency in the Prairie provinces.

[32] The PNGCB was renamed the Oil and Gas Conservation Board (OGCB) in 1957, and the Energy Resources Conservation Board (ERCB) in 1971. It is currently known as Alberta Energy Regulator (AER). In its evolution, the PNGCB has had its powers expanded to cover more aspects of energy development, with the AER's power broadened to regulate public lands, environment, and water, functions previously carried out by Alberta Environment and Sustainable Resource Development (ESRD).

argued that “the tremendous glow generated from flared gas was sufficient in the 1930s to keep Turner Valley oilfield in perpetual daylight” (1993, xlix).

After two attempts to address the conservation challenge failed due to the federal government declaring these attempts unconstitutional, the third effort proved successful in 1938, leading to the establishment of the Alberta Petroleum and Natural Gas Conservation Board. Despite initial resistance by oil producers and companies that were used to operating unfettered, the Conservation Board was able not only to reduce gas flaring but also to increase spacing between wells from 20 to 40 acres (Finch 2008).

4.6.2. Leduc Discovery and Aftermath: From Boom to the Challenge of Markets

Meanwhile, the search for oil continued, but it was not until 1947 that commercially viable oil was discovered by Imperial Oil in Leduc. The Leduc No. 1 was discovered in February 1947, with a second discovery several weeks later (Leduc No. 2) that proved better (Nielsen, 2012). The Leduc wells became Canada’s first successful wells, and marked a turning point for the political and economic history of Alberta, the Western provinces, and Canada as a whole.

The Leduc discovery came after efforts by Imperial’s 32 technologists, who drilled several wells for oil during the Second World War, were not successful except for the discovery of “very little market value” natural gas (Nielsen, 2012, 56). Thus, before the Leduc discovery, Canada was relying on 90 percent of imported oil for domestic usage (Canadian Energy Information Centre, 2004). Indeed, as noted by Nathan E. Tanner, Alberta’s Minister of Lands and Mines between 1937 and 1952, before the Leduc discoveries, enthusiasm about a discovery was at its lowest ebb, such that serious thought was given to the idea of creating synthetic oil from natural gas (cited in Nielsen 2012, 76). Yet, Ted Link, Imperial's chief geologist, who discovered the Devonian reef at Norman Wells on the Mackenzie River in 1920, was hopeful that deposits of Devonian reef buried in the Western Canadian Sedimentary Basin may contain oil deposits (Nielsen 2012). Following the Leduc discoveries, a rash of new oilfield discoveries were made around Edmonton; the most important of these was Redwater, which became the second-largest discovery after Leduc (Nielsen 2012).

The Leduc discoveries and their aftermath changed the landscape of the oil industry in Canada. Following Leduc in 1947, “the total proven reserves of crude oil were sufficient only to meet Canadian requirements for less than a year..., just six years later, these reserves have increased by more than twenty times (from 72 million to 1.6 billion barrels) … sufficient to meet Canada’s requirements for more than ten years in spite of the fact that the nation’s consumption … more than doubled” (Tanner, cited in Nielsen 2012, 74). This transformation was propelled by rapid infusion of capital and companies into the oil patch. As noted by Tanner, capital investment rose from $12 million a year in 1946 before Leduc to $50 million post-Leduc in 1948, and $300 million in 1952; the exploration area rose from 20 million acres in

1946 to 214 million acres of land at the end of 1952; the number of exploration wells drilled rose from 119 in 1946 to 840 in 1952; and the number of important discovered oilfields increased from four oilfields in Alberta and Saskatchewan by 1946 to forty, stretching from British Columbia to Manitoba, by 1952 (Nielsen 2012, 75). The post-Leduc era transformation in the industry was so rapid, especially in Alberta, that by the end of 1957, 85 percent of Canada's oil reserves were discovered in Alberta and the province produced about 137 million barrels of oil (Alberta Culture and Tourism 2017). Accordingly, the Canadian oil industry thus witnessed a bifurcation of the oil markets: the flourishing industry in Alberta dominated the four Western provinces, while foreign multinationals retained control of the markets in Ontario, Quebec, and Atlantic Canada.

However, with the discovery of the Leduc oilfield and those that followed (Gow 2005), production overwhelmed consumption and the province was faced with the potential of a saturated oil market (Chastko 2004). Accordingly, the main challenge of the post-Leduc era was availability of market for burgeoning oil produced in Alberta. To curtail the glut, the Alberta government imposed regulations limiting production of conventional oil, but passed a legislation in 1955 exempting the then-struggling oil sands from its pro-rating policy (Parker and Tingley 1980). In other other words, compared to earlier periods, the primary aim of production regulation shifted from preventing gas flaring to ensuring that supply did not overwhelm demand and thus suppress producers' earnings from oil. Yet, production cuts hurt the Alberta government and producers, particularly Canadian independent producers, who mounted pressures on Prime Minister Diefenbaker to allow them access to the Ontario and Montreal markets that had hitherto depended on cheaper imported oil (Chastko 2004; Nemeth 2002). While oil production increased by 33 percent in 1956-57, leading to an almost threefold increase in exports as a result of the Suez Canal crisis, production nevertheless suddenly decreased by 1958 (Nemeth 2002). Pipelines to Montreal, the Canadian independent producers argued, would bring certainty to the problem of market access (Nemeth 2002).

The 1957 Borden Royal Commission on Energy was partly set up to examine this problem and proffer solutions, with the Commission recommending a compromise by establishing the National Oil Policy (NOP) of 1961. This policy divided the country into two oil markets, with Canadians west of the Ottawa River (Ontario and the Western provinces) directed to patronize the more expensive oil from Western Canada, which was shipped through the Trans-Canada Pipeline, while those east of the Ottawa River (Quebec and Atlantic Canada) were allowed to continue to use relatively cheaper imported products (Tuohy 1992). The National Energy Board (NEB), a regulator for pipelines and international trade, was also created at this time (Tuohy 1992).

Tuohy (1992) considers the NOP a "classic Canadian compromise" geared towards national integration. It not only ensured that Alberta would have a market for its oil in Ontario, but also allowed for low oil prices during this period (Tuohy 1992). The potential expansion of Ontario's refining and petrochemicals

facilities, as well as new investment dollars and jobs, helped mitigate the anger of citizens in that province who were forced to purchase oil at higher prices than before (Nemeth 2002). As well, the NOP also guaranteed eastern Canada's continuing access to cheaper imports. However, it should be pointed out that while the NOP remedied the problem of market access, the argument has been made that the solution adopted—oil exports to the US which preserved markets in Quebec and Atlantic provinces for importation of oil, rather than the extension of oil pipelines to the east of the Ottawa River as the Canadian independent companies suggested—robbed Canada of the opportunity to attain energy self-sufficiency (Laxer 2015). This ultimately benefitted the US and the integrated oil companies rather than the Canadian independent companies, whose response to the NOP, according to Chastko (2004), was indifference rather than excitement. Nemeth (2002) attributes the US focus of the NOP to Prime Minister John Diefenbaker's and President Dwight D. Eisenhower's cordial relationship, as well as Diefenbaker's federal government's reluctance to bear the cost of pipelines. Though the Trudeau administration attempted to change the situation by subsidizing "the building of the Interprovincial Pipeline (now Enbridge Line 9) that brought western oil from Sarnia to Montreal, cutting across the Ottawa River line and displacing much imported oil," reforms by the succeeding Mulroney government refocused the goal towards export to the US (Laxer 2015).

The NOP was bolstered by the exemption from the US import quota policy of 1959 of Canadian oil exports into the US (McRae 1985; Tuohy 1992). Thus, with the NOP in place, Western oil was not only protected in Canada, but exports to the US were also encouraged. By guaranteeing the access of Ontario and the US to Alberta oil, the NEP helped increase production from 543,000 to 2.1 million barrels per day from 1960 to 1973, while exports, a significant amount of which went to the US, rose from 33 percent to 66 percent during this period (Energy, Mines and Resources Canada 1987, cited in Tuohy 1992, 261). Also, this period witnessed a form of broad consensus regarding the pace of development of oil between federal and producing provinces governments (Doern and Turner 1985) leading to relatively peaceful intergovernmental and government-business relations, as growth continued and the provinces and the federal government maintained their primary traditional constitutional powers over oil. The provinces exercised "proprietary powers over oil and gas and federal powers over trade and commerce were exercised to benefit the industry" (Cairns, Chandler, and Moull 1985, 254). This tranquility was shattered by the first oil price crisis of 1973-74, and the instability continued with the second oil price crisis of 1979-80.

The policy response to the 1973 oil crisis was the reversal of the NOP. The NOP was predicated on cheaper oil prices; when oil prices increased as a result of the OPEC oil crisis of 1973, the fragile compromise that the NOP guaranteed could not endure (Tuohy 1992). An export tax was imposed on Alberta oil to discourage export to the US, while a "made-in-Canada" oil price prevented the domestic oil price from increasing simultaneously with international prices (Doern and Toner 1985). As well, the federal

government disallowed Alberta's attempt to deduct "provincial royalties from the taxable income of petroleum companies" (McKenzie 1984). All these measures were enacted "in response to concerns raised in Canada about the availability of oil and gas resources to satisfy domestic demand" (McRae 1985, 50) as well as the Trudeau government's desire that all Canadians should benefit from oil windfalls rather than the producing provinces (Pratt 1981). The federal government's quest to ensure that Canada would become self-sufficient in oil production and supply also led to the creation of Petro-Canada in 1975. Petro-Canada was accorded preferential treatment and mandated to explore and develop new sources of oil in areas that belonged to the federal government, offshore areas where disputes over jurisdiction between federal government and the coastal provinces were ongoing, and later the downstream sector (Fossum 1997; Ploudre 2012). Meanwhile, in response to the oil price increase, the Western provinces had earlier created their own companies. These included Alberta Energy Company Ltd., later renamed Encana after its merger with PanCanadian Energy Corporation in 2002, which was created in 1973 as a mixture of state and private sector partnership, with the Alberta government holding a 50 percent share, later reduced to 36 percent which was eventually divested of in 1993; and Saskoil and British Columbia Petroleum Corporations, which were fully government-owned companies (Hillmer 2006; Ploudre 2012).

Alberta's responses to the first oil price increase were the strengthening of the province's regulatory institution as the medium through which the province could assert more control over the oil industry, and the imposition of royalty increases as a route to capture more rents from the international oil price increase, which would then be used to diversify the province's economy. Part of the money to achieve this diversification[33] was saved in the rainy-day fund known as the Alberta Heritage Savings Trust Fund (AHSTF), created in 1976 (Nemeth 2006). To further the development of the oil industry and increase revenues from oil, a rash of new institutions were also created besides the oil companies. This included, for Alberta, the Alberta Oil Sands Technology and Research Authority (AOSTRA), which was formed in 1974 to promote innovative research and technology for oil sands development, and the Alberta Petroleum Marketing Commission (APMC) in the same year, a Crown company "responsible for selling the conventional crude that the Alberta government receives in lieu of cash royalties" with the goal of maximizing the value of the province's oil royalties (Alberta Energy 2017). Graham (2001) describes the province building that took place with oil windfalls during this period as a grand one analogous to Alberta's "equivalent of Quebec's Quiet Revolution," the difference being that in Alberta's case, religion was "pushed out of the foreground of politics" while energy replaced language, even though separatism

[33] A major facet of these efforts was the use of "loans, loan guarantees, and equity partnerships to assist specific companies and private sector projects" (Emery 2006, 719); these interventions were so massive/direct that by the time of decreasing oil prices in the 1980s, the province lost many of the projects supported by government, and was forced to write off the debts of the failed projects. The write-off of the Alberta government for the failed projects amidst declining oil prices stood at $2.4 billion by 1993 (Emery 2006, 719).

was never a serious consideration of Alberta's 'quiet revolution.' However, the attempts by the oil-producing provinces to get what they considered a fair share from the windfall profits and to use these to carry out province-building projects during this period were not all successful. Just as the federal government stood down Alberta's attempt to deduct "provincial royalties from the taxable income of petroleum companies" (McKenzie 1984), Saskatchewan's attempt to increase its revenue during this period by enacting the Oil and Gas Conservation, Stabilization, and Development Act of 1973, which imposed graduated taxes on oil production, was challenged by the oil companies. Their argument was that the province acted within its constitutional bounds in imposing an indirect tax, and the Supreme Court affirmed the claims of the oil companies (Blakeney 2008).

4.6.3. Federalism and the 1970s Oil Crises in Canada

The exogenous shock beginning with the oil price increase following the OPEC crisis of 1973 would shatter what had been a period of more orderly and incremental institutional change, in the process creating uncertainty not just for provincial-federal government relations over oil, but also for relations between government and industry.

Table 3: Canada's Reserves and Productive Capacity of Conventional Crude Oil and Pentanes Plus, December 31, 1974

Province	Proved Remaining Recoverable Reserves (MMbbl)	Productive Capacity (Mbbl/Day
British Columbia	190	50
Alberta	7270	1760
Saskatchewan	530	226
Other	90	18
All Canada	8080	2050

Source: Alberta Energy Resources Conservation Board, cited in Federal-Provincial Conference of First Ministers April 9 – 10 Ottawa 1975 Energy, Supply and Demand, Document No.: FP-4164. P. 2

With the international oil price increase that ushered in an increased source of oil rents in Canada, these 'stakeholders'—federal and provincial governments, and the oil industry—were involved in contestations over the new form of accumulation, with this contest disrupting the relative 'consensus' and dominant authority pattern that had existed in the industry since the Leduc discovery. Arne Nielsen, a former president of the Canadian Petroleum Association, summarized the developments relating to the shift in world oil price and the federal government response of 1973 as follows:

> As the decade of the 1970s opened, a barrel of oil sold for $1.80 or its equivalent anywhere in the world including Canada. That price had been more or less constant for the postwar years. By mid-1973, however, after OPEC took control of the market pricing, it had risen to $3.40 per barrel. A year later, Pierre Trudeau's Liberal government, using a sequence of what were called "federal- provincial agreements" for cover, set the price of a barrel at $6.50 in Canada when in the rest of the world it went for more than $11. (Nielsen 2012, 199)

However, the second oil price increase that began in reaction to the Iranian political crisis of 1979 attracted more interventionist response from the Trudeau federal government, which was returned to power with a majority electoral support when he defeated Joe Clark of the Conservative Party. Clark had earlier defeated Trudeau in the general election of spring 1979, but his minority government was defeated in the February 1980 general election, over a budget proposal that introduced a gas tax of 18 cents per gallon (CBC 1979). The new oil policy, known as the National Energy Program (NEP), was unilaterally imposed by the federal government in 1980 as international oil prices continued to rise. The NEP document stated that by the time the policy was adopted in 1980, international oil price was $38 or more (Department of Energy, Mines and Resources 1980). The exponential increases occurring with the second oil price crisis of 1979 created difficulty for the producing provinces and the federal government to reach a consensus on oil prices, as they had done during the first oil shock when they limited domestic oil prices to within 15 percent of the international price (Helliwell, MacGregor, McRae, and Plourde 1986), which helped mitigate the conflict that would have arisen from world price increase. Lack of consensus over pricing and revenue sharing led to the unilateral adoption of the NEP by the federal government, which escalated conflict.

It should be noted that the NEP was introduced after talks between federal and Alberta authorities broke down (CBC, October 31, 1980). Even though negotiations aimed at resolving the problem were held during the first crisis (1973-78), the second oil crisis propelled by the Iranian Revolution of 1979, during which oil prices went up by 150 percent (CBC, June 24, 1979) and which deteriorated in 1980, forced a unilateral, more drastic and broader policy intervention by the federal government. James Laxer described the NEP as the "most significant act of governmental intervention in the Canadian economy since the Second World War" (Laxer 1983, 74).

The three goals of the NEP were energy self-sufficiency or security, Canadianization or increased participation of Canadians in the oil industry, and a fair energy-pricing and revenue-sharing regime for all Canadians, irrespective of whether they live in producing or consuming regions (Hawkes and Pollard 1987). These changes were in line with what the government of Canada called its "legitimate claim to a share of the energy revenues, to support its energy initiatives, and its broad economic management responsibilities – to cushion individual Canadians from the adverse economic effects, to facilitate industrial adjustment, and to see that fair play is done" (Energy, Mines and Resources 1980, 14).

To accomplish these goals, new institutions and rules were created. These included the Petroleum Incentive Program (PIP) to provide grants to Canadian firms to induce them into oil exploration, especially in Canadian lands and offshore areas; the requirement that only firms that were at least 50 percent Canadian owned would be given exploration rights offshore and 25 percent interest in petroleum exploration offshore; the imposition of a new price regime that curtailed the producing provinces from increasing prices of their oil to domestic consumers in a way that aligned with increasing international oil prices; and the introduction of new taxes through which the federal government aimed to increase its share of oil revenues (Hawkes and Pollard, 1987, 154). In its bid to reduce reliance on oil, whose price was at a record high level during this period, the federal government, determined to encourage the use of natural gas as an alternative energy source, abandoned its previous practice of regulating the price of natural gas to 85 percent of the equivalent oil price. This led to a fall in the price of gas to about 67 percent of the oil price (Hawkes and Pollard, 1987). Finally, the PIP meant that revenues from oil produced in western Canada were used by the federal government to finance the development of the oil industry elsewhere.

These measures had adverse effects on the revenues of the oil-producing provinces. As expected, the rule that prices of domestically-produced oil should not increase as fast as the international price meant that oil-producing provinces could not benefit fully from the windfalls ushered in by the international price crises. Second, the federal government's increase of its own share of revenues from oil meant a reduction in the share of oil producing provinces. Indeed, as claimed by Premier Lougheed of Alberta, the consequence of the new sharing arrangement was that for a gallon of oil produced in Alberta sold in Toronto, the federal government would take 22 cents, the Ontario government where the oil is sold would take 22 cents, the oil industry would take 32 cents, and the least amount, 19 cents, would go to Alberta, where the oil was produced (Hawkes and Pollard 1987). Also, the introduction of the Canadian Ownership Special Charge (COSC), a flat tax imposed on the consumption of oil produced in Canada, meant additional tax on western oil to the advantages of the federal government rather than the producing provinces. The COSC was used to finance the acquisition of foreign firms by the federal government Crown corporation (Helliwell, MacGregor, McRae, and Plourde 1986, 343) and was used to finance Petro-Canada's takeover of Petrofina in 1981 (Hawkes and Pollard 1987). In making these changes, the federal government promised to return money to the oil-producing provinces, which were expected to receive 4 billion through the Western development fund it announced, even though this was not eventually established (Hawkes and Pollard 1987, 154).

Predictably, the oil-producing provinces, led by Alberta, went on full-scale offensive against the federal government, taking its case both to the court of public opinion and to the judiciary. Lougheed described the NEP as "an outright attempt to take over the resources of this province" and a moving of the goalposts by the federal government when Alberta wants to score a goal: "they are trying to change the rules

because we are winning for a short period" (cited in Hawkes and Pollard 1987, 155). Alberta also carried out some economic measures as a way of showing its anger with the NEP by reducing oil production for the domestic market, not just to deprive the government of revenues from the sale of Alberta oil in the domestic market, but also to starve the Eastern provinces of oil.

The core of the new taxes which the Alberta province opposed more fiercely was the Petroleum and Gas Revenue Tax (PGRT), which the province considered a direct violation of its constitutional power to levy royalties on its oil (Hawkes and Pollard 1987). This was the subject of the legal case instituted by Alberta in the Supreme Court.

Premier Lougheed demonstrated the province's opposition to the NEP by reducing 60,000 barrels from the province's daily oil production of 1.2 million barrels (Canadian Press, 2012b), and withheld approvals for the development of some oil sands projects (Jeffrey 1983). The province also instituted a case against the federal government in the Supreme Court, which was later decided in favour of the province in 1982 (Pratt 1981). However, before the Supreme Court's judgement, the Trudeau government had reached a compromise with the Alberta government in September 1981. Under this agreement, "the share of federal government oil revenues would increase from about 10 percent to 26 percent, while Alberta's share and the oil industry's share would each decline to 37 percent" from 50.5 and 40.5, respectively (Trudeau 1993, 287-94). Another major concession from the government in the modified NEP was the introduction of the New Oil Reference Point (NORP), which granted Alberta the right to adjust the prices of synthetic oil and conventional oil discovered after 1981 to match world prices. As well, the federal government also withdrew its tax on the wellhead of natural gas (Trudeau 1993, 287-94). Alberta was also expected to benefit more from its existing oil fields as the prices of old oil or oil discovered before 1981 were modified so that it would rise faster than previously intended in the original NEP but could not rise beyond 75 percent of the NORP (Helliwell, MacGregor, McRae, and Plourde 1986). However, the agreement left the 'Canadianization' aspect of the NEP intact (Trudeau 1993).

Generally, while Alberta and Western provinces see the federal government's intervention as confiscatory and violation of the BNA Act vesting exclusive ownership of resources in provinces, a right taking away from them until 1930 when they won it back, with Alberta describing NEP as confiscatory or a grab, the federal government saw its move as part of the usual Canadian risk sharing practice geared towards maintaining a robust federal community, a practice which Alberta itself has benefited from. As then Prime Minister Trudeau noted:

> In 1960, the Borden Royal Commission on Energy had recommended that in order to encourage the development of oil resources in the west...In effect, for most of the period from 1971-1973, the producers in Alberta had been subsidized by consumers in other provinces, and this had enabled the oil industry to establish itself in a way that led to Alberta's later prosperity. So my argument was that now that prices were going sky-high, the same shoe should be on the other foot and we would share in the

> opposite direction. Alberta would send a greater percentage of its enormous increase in price to the rest of Canada, so that we could subsidize those consumers who had to buy overseas oil. (Trudeau 1993, 293).

This seems to be a fair argument as Trudeau noted. However, the governments of the major oil producing provinces, just like the oil companies, puncture this argument pointing out how the federal government's quest to use resource revenues for redistribution selectively targeted oil, which is produced predominantly in the western provinces. Alan Blakeney, the premier of Saskatchewan, pointed this out when he stated:

> Electricity producers were enjoying increases in revenues in revenues. British Columbia, Manitoba, Ontario, and Quebec were enjoying sharp increases in prices and profits on the electricity they exported to the United States without the federal government seeking to capture any part of the increases…Our argument was that if the federal government believed that they had some right to share in the windfall profits from rising energy prices, why did they confine their grab to oil and gas? Why not electricity? Commodities other than energy products were also increasing sharply in value...The price of gold [mined in Ontario] had gone up by a much greater percentage than the price of oil. But the federal government claimed no share of this increase in price...Why just oil? (Blakeney 2008, 132).

While the idea that oil warranted special treatment could be answered by the fact of its enormous profits during the boom as compared to other resources in similar situation, the coincidence of the Trudeau Liberal government's political or electoral base with the main province that benefited from redistribution of oil revenues from the Western provinces while the resources they had comparative advantage on were spared federal government's intervention makes it difficult to explain NEP as a policy that is fair to all or one that generates win-win for the federation as a whole rather than to specific powerful provinces that the federal government depend on politically.

For its part, the NEP was criticized by the oil industry, who considered the policy a penalty (Atlas 1981), and supported this claim with the fact that one of the goals of the NEP, which was to Canadianize the oil industry, was not applied to other sectors of the Canadian economy (Nielsen 2012). 'Canadianization,' or attempts to raise Canadian ownership of the petroleum sector from the 1980 level of 25 percent to 50 percent by 1990, led to the sale of Canadian holdings in foreign oil companies (Atlas 1981). Also, the NEP's goal to keep prices of oil down for Canadian consumers below the global price led to a mass exodus of Canadian companies to the US, where crude oil prices were higher (about $34 to $36 per barrel compared to $14.70 per barrel in Canada), reduction of planned exploration investment or spending, and efforts by companies such as Acquitaine Co. of Canada to bring in Canadian partners in order to benefit from NEP incentives that were exclusively reserved for Canadian or Canadian-allied companies (Atlas 1981).

The federal government's adjustment to the international oil price crises of the 1970s created insecurity among the provinces, who perceived this as the federal government extending its reach to constitutional spheres in which the provinces thought they had exclusive control, in order to gain oil rents for itself. With this awareness, the resource-producing provinces were determined to forestall a repeat of the NEP episode that threatened their interests. A majority of the Supreme Court justices decided in favour of the provinces' challenge of the NEP by voiding the natural gas tax imposed by Ottawa. In addition to this legal challenge to Ottawa's royalty, which was decided in Alberta's favour, the Lougheed government, exploiting the opening provided by Prime Minister Trudeau's attempt to patriate the constitution, also spearheaded changes to the BNA Act which gave resource-producing provinces rights to levy indirect taxes in addition to their previous powers over direct taxes with regard to non-renewable resources. In other words, the amendments to the natural resources provision of the BNA Act in 1982 empowered provincial legislatures to "make laws relating to raising money by any mode or system of taxation with respect to non-renewable natural resources as long as such laws do not result in differential taxation between primary production processed within the province and primary production exported to another part of Canada" (Natural Resources Canada 2016). In its coalition building effort for the "provision of additional constitutional protection for resource ownership," Alberta utilized Quebec's separatist fervour and its support for a more decentralist federal arrangement even though the alliance between these two provinces eventually eroded over other issues such as Alberta's proposal for Senate reform aimed at instituting a "provincially-appointed Senate" system or the election of Senators and equal provincial representation in the senate, which Quebec was not interested in (Gibbins 1992, 74-75).

4.6.4. New Government, Falling Oil Prices, and Rapprochement over National Energy Policy

With the 1984 election of Brian Mulroney of the Conservative Party as prime minister, a window of opportunity was provided for the replacement of the Trudeau NEP, since the new government embraced free markets despite having criticized them previously, and had a different ideological bent from its predecessors who supported state intervention (Hawkes and Pollard 1987). In addition, lower oil prices in the international market in early 1980s made the price, tax, and incentive structure of the NEP unrealistic, providing further incentive to repeal the NEP (Hawkes and Pollard 1987; Helliwell, MacGregor, McRae, and Plourde 1986). In 1985, the Mulroney government reached two bilateral agreements with the oil-producing provinces in the West, encapsulated as the Western Accord and the Natural Gas Agreements (Hawkes and Pollard 1987). The Accord officially signaled the dismantling of the contentious aspects of the NEP, thus putting aside the rancorous relationship between the oil-producing provinces, the oil industry, and the federal government. For the oil-producing provinces, the Accord ended a program much disliked in Western Canada, which former Prime Minister Mulroney described as having "ripped the economic guts out of" the region, crediting it with "confiscating almost $100 from the Alberta treasury" (Mulroney 2011).

The US oil multinationals secured their investment in Canada and the US won trade security with Canada when the Ronald Reagan government utilized the opportunities provided by the change of government from the Trudeau Liberals to the Mulroney Conservatives in 1984, as well as crumbling oil prices, to negotiate an agreement that would guarantee free trade in the energy sector. This agreement was sealed in 1988. Prime Minister Mulroney, who had criticized free trade during his party's leadership contest in 1983, later became a free trade convert and had consequently leveraged on the report of the 1985 Macdonald Royal Commission, which aligned with his own government's policy framework enunciated in his first Throne Speech in November 1984 (McMillan 2007). The Macdonald Royal Commission had been set up by the Trudeau government, and though its chair, Don Macdonald, was a staunch liberal politician who favoured government intervention, it recommended the establishment of free trade.

The existing trade relationship between Canada and the US had been criticized as unbalanced in favor of the US, a factor which had informed the 'Canadianization' component of the NEP. The trade deal with the US elicited further criticism for being disadvantageous to Canada, particularly from provincial governments led by the government of Ontario, which preferred tariff protection. However, Premier Lougheed of Alberta, who had projected himself as a pro-market politician and had advocated for a bilateral trade with the US at the Shamrock Summit of February 1985 attended by Canadian premiers, and US President Ronald Reagan and Prime Minister Mulroney found it a fair deal (McMillan 2007), a move not surprising given that the province stood to gain from guaranteed oil markets in the US. Also, perhaps as a result of the interventionist policies of the Trudeau government, which destroyed relations with the US, Canada's most important trading partner, Canada's business community also supported the proposal for a free trade agreement with the US (McMillan 2007). If the election of 1988, which Mulroney won overwhelmingly, was a referendum on the Canada-US Free Trade Agreement, the verdict was that it was well received (McMillan 2007), particularly in the oil-rich provinces of Alberta and Saskatchewan where the Conservatives cleared all the seats, even though the Mulroney's Conservatives lost the popular votes when compared to the votes of the two opposition parties, the Liberals and NDP. The election result gave Mulroney the mandate to sign the deal after being blocked in the former parliament by the Liberals and the NDP, which considered the FTA a loss of sovereignty (CBC 1988) and as a sell-out that might turn Canada into, as John Turner, the Liberal candidate for the 1988 election put it, a "colony of the United States" (Azzi 2015). The CUFTA was later extended in 1992 by Jean Chrétien's Liberal government to include Mexico, in an agreement known as NAFTA.

The Accord enabled the modification of domestic oil prices and production to align with changes in international oil prices, thus making it possible for oil-producing states and oil firms to reap more rents in the event of oil windfall. It substantially, minimized the federal government's influence on the oil industry, and introduced tax and royalty changes by both the producing provinces and the federal

government that led to the "transfer of revenues from the federal government to the producing firms" (Helliwell, MacGregor, McRae, and Plourde 1986, 341).

The Mulroney government's Western Accord also contained other energy policies that benefited not just the three western provinces of Alberta, British Columbia and Saskatchewan, but also the offshore oil-rich Atlantic provinces. These include the Natural Gas Agreement, the Frontier Energy Policy which includes "legislative changes to ensure that Petro-Canada would henceforth receive no preferential treatment, and a proposed Canada Petroleum Resource Act to replace the more arbitrary powers of the Canada Oil and Gas Act" (Hawkes and Pollard 1987, 158).

In general, the changes to the federal government tax system were for the benefit of the oil industry and not the provinces (Hawkes and Pollard 1987), even though the provinces would gain from the royalty charges and income tax on increased exploration investment that the industry was expected to reinvest (Hawkes and Pollard 1987). Also, the Accord prohibited producing provinces from increasing their revenues to fill the gap left by reduced federal taxes.

With the Western Accord, oil taxes were levied on companies' profits rather than gross accruals. State control was replaced by the free market, and the Canadianization policy that favoured Canadian-owned companies gave way to incentives to all companies to invest in the oil industry. The exception was offshore oil, for which the ownership requirements of the NEP still applied (Hawkes and Pollard).

The Accord also led to the elimination of the PGRT and its gradual phase-out by 1989, and the elimination of other taxes such as the crude oil export charge (COEC) and the COSC. The PIP was phased out by 1987, even though the government dedicated itself to meeting existing commitments. Future exploration incentives provided by the federal government would be tax-based and would not discriminate based on the country of ownership of the oil company or the location of exploration, irrespective of whether exploration was carried out onshore or offshore (Hawkes and Pollard 1987).

Reforms to the natural gas industry included the introduction of full-fledged deregulation of prices, where prices are determined by market forces rather than being fixed by the government, and the de-linking of natural gas prices. In addition, to assuage the Ontario government, which feared that Alberta would sell gas to consumers in the US rather than in eastern Canada, there was the provision "that any Canadian gas sold to the us will not be prices than the gas sold to Canadian for similar types of services in the area nearest the export point" (cited in Hawkes and Pollard 1987, 158).

The Mulroney government insisted that the changes to the NEP did not imply a lack of commitment to the goals of opportunity, fairness, and energy security espoused by the NEP, but were meant to achieve the same goals with different policies (Hawkes and Pollard 1987). Yet, it would be naïve to think that the Mulroney reforms were a win-win situation: given the reordering of preferences and policies, the

changes created winners and losers just as the original NEP did. Yet, unlike the NEP, the Western Accord and Natural Gas agreements did not generate similar responses. A major reason for this was the changing international environment characterized by lower oil prices, which rendered the NEP anachronistic given that it was instituted in reaction to higher international oil prices in the first place. This awareness helped douse the conflict that would have emerged from the replacement of the NEP, from the provinces who benefited from it.

Following the NEP and the Western Accord, Hawkes and Pollard (1987, 151) wondered how enduring the "new found harmony in energy policy" would be. It would seem that this harmony has endured, as there have been little or no vertical conflicts over ownership and control of onshore oil since the Western Accord. However, this does not mean that the role of the oil factor was eliminated, but that it assumed different mechanisms and dynamics. Horizontal conflicts over pipelines have become the dominant form of conflict, but due to the focus of this project on the upstream oil sector, these conflicts are not treated here. This allows us to focus on other areas in which oil revenues has featured in intergovernmental conflict, particularly the equalization program.

4.7. Oil Revenues, Equalization Transfers, and Intergovernmental Fiscal Relations

Scott (1980, 6) describes the equalization system as "the strongest modern tangible evidence of national solidarity" in Canada, symbolizing the spirits of "empathy and...altruism" among Canadian provinces. Its introduction in 1957 heralded the institution of "systematic interregional distribution in Canada" (Scott 1980, 6).

Prior to the submission of the Royal Commission on Dominion-Provincial Relations (or the Rowell-Sirois Commission) of 1940, which recommended the introduction of equalization—the national adjustment grants—to bring poor provinces to the national standard, but whose recommendation was rejected by Alberta, British Columbia, and Ontario on the grounds that such transfers would not benefit them (Hogg 1977)[34], transfer payments to help provinces in need in Canada were governed by a system of subsidies (Scott 1980). A formal system of subsidy payments to provinces by the federal government was established at Confederation. The provinces submitted their powers to levy custom duties and excise, which was the most lucrative source of revenues at the time of Confederation, to the federal government, comprising about 80 percent of some provinces' revenue source (Hogg 1977). It was provided that the federal government should not only assume the debts of these provinces and provide

[34] A sticking point was the Commission's request that provinces should surrender income and corporate income taxes as well as inheritance duties to the federal government in exchange for unconditional payment from the federal government. Suffice to say that while this recommendation was rejected, wartime exigency made the provinces withdraw from these tax fields, albeit on a temporal basis rather than the more permanent relinquishing of taxing powers which the Rowell-Sirois Report recommended (Hogg 1977).

for infrastructures such as railways and canals to better connect the scattered colonies that formed Confederation, but to also provide an annual grant or subsidies to these provinces based on their population, thus starting a formal system of subsidy payments from the federal government to the provinces (Constitutional Act 1867). However, just two years into Confederation, Nova Scotia, having elected a parliament all but one of whose members were anti-Confederation, threatened to leave Confederation. Prime Minister Macdonald had to use a system of patronage, through payment of additional subsidy to the provinces, to prevent it from leaving the union (Cook 1969). The ad-hoc and informal form of subsidy payment, which can be described as side deals between Ottawa and the provinces concerned, generated intense disagreement (Cook 1969; Scott 1980). For instance, Ontario, which was then, perhaps, the richest province and refused to resort to asking for subsidies from the Dominion government, criticized the additional subsidy payment to Nova Scotia by arguing that given that confederation was a compact of provinces, other provinces should be consulted before such a payment is made (Cook 1969).

The challenge posed initially by Nova Scotia's anti-confederationists, which was mollified through the provision of special grants, was in part a fallout of the compromise at Confederation whereby the provinces submitted their major revenue sources—custom duties and excise—to the federal government but later found themselves not having enough money to implement their budgets (Bélanger 2001). To be sure, while negotiating the terms of Confederation, it appeared to the provinces that the submission of customs duties and excise was a sound move, as the Dominion government not only assumed their debts but also provided grants and subsidies to them. However, time proved this not to be true, as these provinces ran into financial problems. Rather than utilize their power to levy direct taxes in order to augment for shortfalls, this move was considered politically unwise, as it would turn the masses, who were not used to paying such taxes, against the leaders and Confederation (Hogg 1977).

In a sense, in addition to the annual statutory grants enshrined in the BNA Act, 1867 and in the terms of union of the other provinces that joined Canada later which the federal government committed itself to provide for the provinces, the province-specific informal fiscal concessions by the federal government such as Nova Scotia's 'better term' of 1869 could be regarded as the precursor to the equalization payments (Stevenson, 2007). As Stevenson (2007) noted, the 1869 "'Better terms' for Nova Scotia establish the precedent that additional grants to any province may be made at the discretion of Parliament" (3). This trend emerged from the realization that economic disparity between the provinces was a hindrance to the concept of provincial equality and, above all, the well-being of the union itself. This disparity needed to be tackled on a case-by-case basis, which in a sense was a form of asymmetric federalism, even though the statutory subsidies granted to provinces during the early period were calculated based on a province's population and need rather than fiscal capacity, which is now the basis for the equalization payment system. While the annual statutory payments were guaranteed for the

provinces, the subsidy payments analogous to Nova Scotia's 'better term' were ad hoc and informal compared to the equalization payments that are formula-driven, even though these three transfers—annual statutory payments, ad hoc subsidies, and the equalization payments—are all made from the federal government's own revenues.

Equalization was codified as a formal institutional rule in the 1982 Constitution Act, section 36 (2) of which committed "Parliament and the government of Canada…to the principle of making equalization payments to ensure that provincial governments have sufficient revenues to provide reasonably comparable levels of public services at reasonably comparable levels of taxation." However, as noted previously, equalization, which formally began in 1957-58, had existed as an informal program prior to that period. The role of norm was crucial in the entrenchment of equalization even before its formal adoption in 1957 and its codification in the constitution in 1982. While it can be argued that the normative idea of fairness and equality behind equalization in its early beginning was not uncontested, it would appear that there was some widely shared consensus around it.

Central to the shift to a formal equalization program in 1957 was the practical problem of how to forestall provinces from imitating Quebec, which had opted out of the tax rental agreement in 1946 (Béland and Lecours 2014), and further pursued this decentralist action, following on the 1956 recommendation of the Tremblay Commission (Quebec's Royal Commission of Inquiry on Constitutional Matters), by imposing its own personal income tax (PIT) (Courchene 2007). Fearing that the Quebec move[35] would be repeated by the other provincial governments who may follow on the Quebec lead to institute their own separate taxes, the federal government moved to preempt them by agreeing to transfer to them "shares of the three so-called standard taxes to the provinces—10 percent of the PIT, 9 percent of the corporate income tax (CIT) and 50 percent of succession duties" (Courchene 2007, 23). However, given that these transfers were made to the provinces on a derivation basis with the implication that "richer provinces would receive larger per capita transfers," compared to provinces with low tax bases, the federal government decided to make equalization transfers to curtail the resulting revenue inequality designed to guarantee "that all provinces' revenues from these shares of the standard taxes would be brought up to the per capita level of the average of the richest two provinces" (Courchene 2007, 23). This marked the formal beginning of Canada's equalization program. Courchene (2007) suggests that equalization was the sacrifice that rich provinces paid for the larger shares of PIT and CIT progressively transferred to them

[35] The federal government sought an urgent response to the Quebec action on the extreme recommendation of the Tremblay Report, which, as Scott (1980) noted, was biased in favour of the formation of a loose confederation or common markets between provinces, and which built on Ontario's own position in the 1945 post-war federal-provincial financial meetings on the pooling together of revenues by provinces independent of the federal government.

by the federal government, as it helped prevent opposition to decentralization of taxes by poor provinces who depended on centralized redistribution.[36]

The Quebec move that eventually led to equalization could be regarded as an affirmation of provincial right in response to the increasing centralization of power that began with World War II as well as a push by Canada's majority-French province against what it perceived as an attempt by the federal government to achieve cultural homogeneity through its enormous spending power, which violated the province's idea of the Confederation pact as a compact of the French and English nations (Bélanger 2000). Thus, the practice of fiscal autonomy became ensconced in the idea of cultural identity. It in this sense that some scholars argue that the creation of equalization not only resolved a practical problem regarding fiscal relations but also a policy aimed at "ending the isolation of Quebec" (Bryden 2009, 81, cited in Béland et al. 2017,18).

With this in mind, just as Quebec's autonomist claims based on its sociocultural diversity as Canada's only French-speaking province were piggybacked on by then-Alberta Premier Peter Lougheed to strengthen provincial powers over renewable resources in the 1982 Constitution Act, we also see this same Quebec influence, albeit indirectly, on the sharing of oil revenues through the province's influence in the emergence and sustenance of the equalization program, whose key component and most significant per capita contributor revenues were from oil, particularly from Alberta. As reiterated by Béland and Lecours (2014), a key motivation for the creation of the equalization program in 1957 was to use it to douse Quebec nationalism and threats of secession. The accommodation of Quebec nationalist identity in a way that was non-threatening to Canada was central to the creation of the program. Equalization can therefore be seen as a redistributive measure to 'buy off' not just poor provinces, but also a powerful ethnic minority territorial constituent unit, such as Quebec, with secessionist potentials or deep grievances. As well, though the challenges of national unity still remain even with equalization, changing political events over time have helped Quebec politicians embrace a more pragmatic view of the province's place within Canada in terms of the economic benefit it can derive from its membership in the Canadian federation (Béland and Lecours 2014). As efforts to enhance Quebec's political status as it transitioned, beginning in the 1960s, "from an essentially traditional and defensive French-Canadian nationalism grounded in the Catholic religion to a modern, language-focused and more assertive Québécois nationalism," the idea of maintaining economic benefits from the union, as encapsulated in

[36] Equalization is one of three major federal government transfers to provinces, the others being the Canada Health Transfer (CHT) and the Canada Social Transfer (CST). According to Dahlby (2014a), in the 2013-14 fiscal year, these two non-equalization transfers (the equalization components of the CHT and CST were removed in 2007 and 2014 respectively and were replaced by equal per capita allocation as Béland et al. 2017 pointed out) represented 72.4 percent of total federal transfers to the provinces, while equalization represented 27.5 percent. In 2016-17 however, equalization received the second largest transfers among the three major federal government transfers to the provinces (Béland et al. 2017).

the concept of *le fédéralisme* emphasizing 'profitable federalism' which former Quebec premier Robert Bourassa described "as a way to highlight the concrete benefits for Quebecers of staying within the Canadian federation" (Béland and Lecours 2014, 345) was the discourse propagated by the federalists as an alternative to the demands by Québécois nationalism for outright independence or sovereignty-association with the rest of Canada. The defeat of sovereignty moves could partly be explained by the "explicit fiscal incentives" provided by equalization, which convinced Quebecers that it was more beneficial to remain within Canada than to secede (Béland and Lecours 2014, 345).

With the political isolation engendered in Quebec following the defeat of the independence movements in the sovereignty referendums of 1980 and 1995, as well as several rounds of constitutional negotiations with proposals to enhance Quebec's autonomy, failures interpreted as sign of rejection of Quebec by the Rest of Canada, the only persuasive way of discussing federalism in Quebec became the economic attraction it holds for the province to reap concrete material benefits through the practical sides of federalism, such as equalization (Lecours and Béland 2012, 345). Equalization can, therefore, be seen as a key 'tie that binds' Quebec, Canada's only linguistic minority province, to the Canadian federation. Both "federalist and separatist Quebec governments…used the threat of separation to go and get more money" (Marquis 2014) through equalization; however, as a former federal cabinet minister, Maxime Bernier, noted, money once sent by Ottawa is never enough in Quebec (Marquis 2014). Ottawa itself has also used equalization strategically "to support federalist forces in Québec" (Béland and Lecours 2014, 346). Béland and Lecours (2014, 345), citing Bryden (2007), further point out that as a "program entirely controlled by the federal executive, equalization can have partisan political uses. For example, the details of the 2007 reform that resulted in a boost of equalization funds for Québec were announced just a week before a provincial election in which the federalist Québec Liberal Party was in a tight three-way contest with more nationalist parties. The timing of the announcement was widely seen as a move by the federal government to help a federalist ally in Québec." I shall return to the political ramification of equalization, but before then, I shall discuss its inner workings and the challenges that oil revenues have posed to its operation.

Since its creation in 1957, the equalization formula has evolved from one based on the use of three revenue sources—personal income tax, corporate income tax, and succession duties—as measures of fiscal capacity and the use of a two-province benchmark for measuring the per capita revenues of equalization-receiving provinces,[37] to one of five-province standard in use from 1982 to 2004,[38] to the current one based on 10 province or national average standard (Béland and Lecours 2014; Locke and

[37] Under this arrangement, provinces whose per capita revenues from the aforementioned three taxes "yielded less than the average of the corresponding per capita revenues of the two top provinces," which were, then, Ontario and British Columbia, but with only Ontario unqualified for equalization payment (Feehan 2005: 186).
[38] These are Ontario, Québec, Saskatchewan, Manitoba, and British Columbia.

Hobson 2004), and five categories[39] of revenue sources: personal income taxes, business income taxes, consumption taxes, property taxes, and natural resource revenues (Roy-Ce□sar 2013). At the present time, the eligible equalization-receiving provinces are Prince Edward Island, Nova Scotia, New Brunswick, Quebec, Ontario and Manitoba, with Quebec being the largest recipient province, accounting for $10 billion of the nearly $18 billion equalization program for 2015-16 (Blatchford 2015).

Equalization is renewed every five years (Parliament of Canada 2004). Renewals are carried out through consultations between the federal government and the provinces in which important aspects of the program, including technical issues such as the modalities for payment and recaptures, and other core issues, such as program standards and the reevaluation of the representative tax system used, are discussed. However, the final decision on any recommended changes is the responsibility of the federal government (Quebec Commission on Fiscal Imbalance 2001). Three levels of interaction between federal and provincial officials take place during the renewal consultative process: the Sub-Committee on Transfers; the Fiscal Arrangements Committee (consisting of assistant deputy ministers of the federal and provincial governments responsible for the fiscal arrangements); and the federal-provincial meetings of Ministers of Finance (Quebec Commission on Fiscal Imbalance 2001).

Oil was not one of the revenue sources used in the computation of fiscal capacity when the equalization program formally began in 1957, and this meant that oil-producing provinces such as Alberta and British Columbia would receive equalization (Beland and Lecours 2015, 108). The addition of oil revenues created a distinct problem for the program. While natural resources generally do feature in Canada's equalization program, with the Expert Panel on Equalization and Territorial Financing Formula (2006) noting that "the treatment of resource revenues is the most complex and controversial aspect of equalization" (5), oil is the main pathway through which redistributional conflict is introduced into the system. As Lecours and Beland (2015) pointed out, "uneven territorial distribution of natural resources (especially oil and gas)" stands out as the key source of intergovernmental conflict over equalization (100). Oil poses more challenge for the operation of the equalization program, and is the driver of most adjustments because of the substantial size of oil revenues, through the PIT and CIP which make up most of the federal government's own revenues for the equalization transfers which are largely collected from oil-producing provinces, particularly Alberta. The concentration of oil in a few provinces, the ensuing immense regional disparity and inequality produced by the uneven distribution, and the periodic oil windfall profits during boom times, which accrue to provinces as resource rents rather than taxation of citizens (McMillan 2012) make the treatment of oil a complex one.

[39] Before the recommendation of the Expert Panel on Equalization and Territorial Financing (2006) for the simplification of the Representative Tax System (RTS) to the current five broad categories, there were 33 tax sources used in the calculation of the fiscal capacity of the provinces.

Table 4: Treatment of Non-Renewable Natural Resources in the Equalization Program

Year	Value of natural resource revenues (Oil) included in the calculation of provincial fiscal capacity	Province Standard
1962	50%	10 province average (national average standard)
1963		2 (top-two-province standard)
1967	100%	10 province average (national average standard)
1973-74	1/3	10 province average (national average standard)
1977	50% of all non renewables	10 province average (national average standard)
1981	100% (excluding resource tax bases in Alberta and offshore oil-rich Atlantic provinces)	5 province standard (excluding the richest [Alberta] and four poorest [Atlantic] provinces from the calculation
2007	50% (or 0% for offshore-rich Atlantic provinces)	10 province average (national average standard)

Source: Author's compilation from Courchene (2007)

For both oil producing and non-oil producing provinces, the treatment of oil in the equalization program matters. As Béland and Lecours (2015) suggest, this could be "full inclusion, full exclusion, and 50 percent inclusion" (108-09). Full inclusion of oil revenues in the calculation of provincial fiscal capacity is preferred by the non-oil-producing provinces that receive equalization, as it increases their share of equalization entitlements.[40] Meanwhile, the oil-producing provinces, who would have been receiving equalization as they did before the inclusion of oil in 1962, argue that oil should be excluded completely, given provincial constitutional jurisdiction over oil and the fact that including oil in the calculation of fiscal capacity penalizes them for developing their resources. The current approach of 50 percent inclusion of oil revenues is seen as "a pure political compromise" (Béland and Lecours, 2015), even though no province advocates such an approach.

At the centre of the equalization conflict is contingency related to prices of oil (Courchene 2007; Scott 1980). Oil revenues pose significant challenges to the equalization payments by widening fiscal disparity, by introducing volatility into the equalization system, and by increasing the financial cost of the program to the federal government. Regarding the first challenge, high resource prices place enormous pressure

[40] Using the 2011-12 equalization payment, Dahlby (2014b) argues that "total equalization entitlements would have been $24.2 billion with a 100% inclusion rate, instead of $17.8 billion with the 50% inclusion rate that was used."

on the equalization system. As oil resource revenues increase, disparities between oil-rich provinces and those without significant oil resources widen, with this development serving as a potential barrier to the economic improvement of the so-called 'have-not' provinces. A corollary of this problem, vividly demonstrated by ongoing oil price slumps, is its potential to rearrange the status of provinces that receive equalization as opposed to those that do not, with the likelihood that some 'have' provinces may become 'have not' and vice versa. This could lead to pushback from provinces that perceive themselves as 'losers' in this rebalancing act (Oliver 2016). For instance, Joe Oliver, former Minister of Finance, suggests that as the prices of oil suffer a precipitous fall, and the financial fortunes of oil-rich provinces who hitherto had been the bulk of net contributors to equalization, Ontario could become a "have not" province, once again losing in the process the approximately $3 billion it presently receives from equalization (Oliver 2016).

With regard to the second problem, the introduction of oil made equalization payments dependent on the resource rents of oil-producing provinces, which are based on fluctuating oil prices. This introduces uncertainty not only into the oil-producing provinces' revenue systems, but also to the equalization program as a whole. To reduce the vulnerability arising from the inclusion of resource revenues in the calculation of equalization payments, the federal government reduced the weight of resource revenues to 50 percent between 1973 and 1977, in response to the higher rents accruing to resource-rich provinces following the oil price shock (Scott 1980). However, the ad-hoc and arbitrary reduction of the weight of resource revenues also meant that payments to have-not provinces were reduced, further exposing these provinces to more financial uncertainties (Scott 1980). "Thus, although the vulnerability danger was averted, the cure has been simply for Ottawa to abandon the goal of regional equalization" (Scott 1980, 4).

The third challenge is the tendency for the financial cost of the program to the federal government to increase with increasing oil prices. The federal government's response to this problem was the imposition of a cap in 1982. However, the use of the cap deprived provinces of revenues. For instance, when the cap was imposed in 1982, the provinces lost $3 billion in equalization payments, with the share of shortfall for Quebec, which had received the most equalization payment per demography, amounting to $1.8 billion or 60 percent of the total (Quebec Commission on Fiscal Imbalance 2001). In response, the provinces pressured the federal government to remove the cap, leading to its suspension in 1999-2000 (Quebec Commission on Fiscal Imbalance 2001). There is also a floor safeguard "designed to protect provinces against a large sudden drop in equalization payments," specifically by preventing "per capita equalization entitlements from falling by more than 1.6% compared to the per capita fiscal capacity of the provinces that form the standard" (Quebec Commission on Fiscal Imbalance 2001, 32). The cap was reintroduced in 2009 "in the face of rising resource revenues especially in Saskatchewan and Alberta" (Dahlby 2014b), and as it emerged that Ontario, the most populous province in the country, was becoming

an equalization-receiving province (Roy-Ce□sar 2013). Thus, the need to lessen the burden imposed by rising oil prices, which increases the size of equalization revenues, has led the federal government to impose a cap or ceiling rather than allow total equalization payments to be determined by the fiscal disparities among provinces. However, the federal government's quest to limit its spending on equalization by capping the size of overall payment does have some effect on the amount of payments that the "have-not" provinces receive (Feehan 2014).

Aside from the aforementioned specific challenges that the nature of oil revenues poses toward the operation of the equalization formula, there are broader, but related, political issues that raise important questions about equity. First, the historic political consideration of using equalization to keep Quebec as a member of the Canadian federation, or to mitigate separatist tendencies in that province, could also explain what Béland and Lecours (2014) call "the political salience" of Quebec's status within the equalization program. Even though such arrangements are politically expedient in Quebec, other provinces have complained that the fiscal arrangement is unfairly benefitting Quebec (Béland and Lecours 2016). The political salience of Quebec within the program can be gleaned not just from the province's influence in the creation of the program and the sheer size of the transfers to that province (Béland and Lecours 2014, 342), but also from the asymmetric arrangement favoring Quebec in the program, because revenues from the province's hydro are not "treated the same as Alberta's oil revenues under the rules" (Holle 2012). This is because the calculation of revenue capacity does not consider "lost revenues resulting from excessively low electricity pricing," which would have reduced the real value of equalization transfers to Quebec (Holle 2012). Peter Holle, President of the Frontier Centre for Public Policy, further argues that had hydro revenues been treated the same as oil revenues and lost revenues as a result of artificially low-cost hydro sold to Quebec residents factored in, equalization transfers to Quebec, which amounted to $42.4 billion between 2005 and 2010, should have been $28.6 billion, as the real pricing for hydro energy would have increased Quebec's revenue, necessitating a clawback of 50% from the $42.4 billion equalization which it received, thereby leaving an extra $14.3 billion (half of $28.6 billion) as deduction from Quebec's equalization (2012). He concludes that by having different rules for natural resources, such as Quebec hydro and Alberta oil, or by allowing these resources to be treated differently in the computation of fiscal capacity, "the federal government paid 34% more equalization to Quebec than it should have under more equitable rules" (Holle 2012). To many commentators, therefore, with such heavily subsidized services in equalization-receiving provinces, the purpose of equalization is defeated. On the dissimilar rates of services provided in have-not provinces as well as their reluctance to develop natural resources as a result of equalization money that they receive, Todd MacKay, the Prairie director of the Canadian Taxpayers Federation, states in an opinion piece in the *National Post*: "Quebec can keep university tuition rates at about half the price students pay in Saskatchewan, partly due to federal money. A family in Manitoba pays about half as much as a family in Saskatchewan for their power bills, partly due to federal money allowing Manitoba to provide lower

prices through its Crown power company. Eastern provinces such as New Brunswick can ignore new fracking technology and under-develop its energy resources, partly because federal money will pay its budget anyway" (MacKay 2015). Joe Oliver, former Canadian Minister of Finance, further lays the problem bare in his discussion of the disincentive for growth of the equalization pie by "opposition to resource development, unrelated to legitimate environmental concerns":

> Several provinces have imposed a moratorium on fracking of oil and gas, even though fracking has been safely utilized for over 40 years in Western Canada and fracking has made the U.S. the largest producer of oil in the world. Certain provinces and municipalities also oppose new export pipelines. Apparently, they believe it perfectly acceptable to receive transfers derived from resource development in other provinces, and yet improper to develop their own resources or even permit development elsewhere. (Oliver 2016)

Saskatchewan Premier Brad Wall has been a major critic of the treatment of hydro, which he expressed in a series of commentaries as well as a call for a national dialogue over equalization during the 2015 general election: "One change we'd like to make, to modernize it, is to include hydro in the calculation… We'd also argue those provinces with the great advantage of hydro that others don't have should probably have to have that included in their calculation of economic capacity" (Bakx 2015). In fact, he not only criticized hydro energy treatment, but also suggested that equalization transfers should be reduced by half, and that half of the more than $17 billion-per-year transfer should be spent instead on infrastructure and tax cuts: "Imagine what $8.5 billion to $9 billion more federal dollars could do in terms of national infrastructure...Perhaps Canadians would rather see a split between infrastructure investment and permanent, sustainable tax relief to build the economy" (Lambert 2015). However, Wall's suggestion sparked a flurry of reaction from equalization-receiving provinces such as Manitoba, whose premier, Greg Selinger, reminded Wall that until 2008, when Saskatchewan joined the ranks of 'have provinces' thanks to its mining and energy revenues, the province had relied on equalization payments that allowed Saskatchewan premiers to "educate their citizens...to build hospitals and schools and roads" and urged Wall to allow other provinces to "have the same benefits that Saskatchewan had" (Lambert 2015).

Another criticism is that equalization provides incentives for provinces not to develop their mineral resources, as doing so will increase their revenues and decrease their equalization entitlements. For instance, Michael Binnion, president of Questerre Energy, stated in an op-ed that this free-ride mentality could potentially undermine the intent of the equalization program by "keep[ing] some regions of the country poor by paying them not to develop their resources" (Binnion 2013), citing example of Quebec where the Ministry of Finance worked to shut down oil and gas development by its plan to" increase royalties before there was even production" which in effect "was a defacto moratorium put in place even before the BAPE [Quebec's environmental regulator, the Bureau d'audiences publiques sur l'environnement] ushered in a real one."

Canadian scholars have also noted the incentives for inefficiency in Canada's transfer payment systems. Courchene (1986), for example, has noted that payments such as equalization foster irresponsible behavior and a dependency mentality in provinces by encouraging them to take economic decisions that benefit them electorally, even when such decisions do not make economic sense. One such example is the imposition of higher minimum wages in poorer provinces as compared to those in rich provinces, with the poorer provinces knowing well that they would not bear the full financial consequences of their actions, as transfers from Ottawa would bail them out. Courchene maintains that this practice, among others, ensures that equalization payments to 'have not' or poor provinces would remain, as the incentive structure in the design of the program is geared at entrenching rather than reducing disparities. Besides the "significant pressures" that the persistence of such "regional disparities put on fiscal federalism for the financing of public goods" (Coloumbe and Lee 1993, 6), the persistence of regional imbalance can sustain the perception of some constituent units that they have continuously borne the burden of others in the federation, and that the federation is hence an unjustifiably unfair system.

It is in this regard that some scholars such as Shah (1996) warn that concentrating only on fiscal capacity without attention to the expenditure/need component of fiscal structure provides incentives for outcomes that tend to undermine the realization of the goal of equity equalization and serve as barriers to efficiency. Yet, the feasibility of reforming the current equalization design remains slim, given its exploitation by both federal and provincial governments to advance their interests.

This point leads to the final political issue regarding equalization: the inbuilt potential for the program to be politicized. As Lecours and Béland (2013) noted, the risk of politicization stems from the absence of an arm's-length body to administer the program. Without such an independent body, the program has become a tool in the hands of federal politicians to be used for political gain (Lecours and Béland 2013). Yet, it is partly because of the leeway that this absence provides, for both federal and provincial politicians, to gain advantages that an independent body has not yet been instituted, even despite clamours for the creation of such an organization to reduce conflicts and depoliticize the program (Lecours and Béland 2013).

The benefit to politicians without an arm's-length institution to administer equalization is the freedom to negotiate ad-hoc changes that would further their interests. Indeed, the increasing importance of the flexibility to make changes for political gains can be gleaned from how these changes are negotiated. Where previously such negotiations were largely carried out through executive federalism or First Ministers conferences, in recent times the forum has changed to bilateral meetings between the federal government and the provinces concerned, instead of all first ministers. Ad-hoc changes that benefit some provinces but not others could be rejected by those that do not benefit from them; similarly, other provinces may piggyback their own demands for equalization before the support of that from another province. This would increase the cost of equalization, to the detriment of the federal government, which has been

struggling to curtail these rising costs. With all of this in mind, the federal government must have realized that the best way to use equalization to push its own interests was through bilateral negotiations rather than first ministers' meetings or independent administration.

4.8. Conclusion

This chapter presents an institutional and historical descriptive narrative of the Canadian oil sector, focusing on federal-provincial conflict. The chapter explicitly focuses on three substantive themes that provide the framework for the analysis of oil conflict: ownership, control/management, and revenue sharing, with emphasis on onshore oil and the upstream sector. Each chapter outlines the historical, constitutional, and regional contexts of oil development, highlighting the federal dimension of institutional rules over oil. This chapter traces the origin of constitutional rules concerning oil with regard to the emergence of the Canadian federation, and also points to the conflicts concerning constitutional rules and the settlements of those conflicts. Given the emphasis of this study on the role of long-term historical processes on political outcomes, this chapter also examines whether and how previous policy decisions or institutional rules during these federations' periods of nation-state formation may have conferred significant advantage over the development of the industry on one order of government or the other, whether and how these existing rules were changed or entrenched at important critical junctures in the history of the country such as federal founding moments, and the political dynamics that shaped the subsequent institutional paths taken over these issues. As I will point out in Chapter 6, which discusses intergovernmental fiscal transfer in Canada and Nigeria, the control of natural resources was a salient bone of contention between Upper Canada and Lower Canada which provided incentive for confederation. The longue-durée approach taken in this chapter, therefore, would enable a careful exploration of over earlier institutional rules allocating authority over oil, whether settled or not; if not settled, why they are politically contested, and if settled, how compromise was achieved.

CHAPTER 5

FEDERALISM AND OIL CONFLICT IN NIGERIA

5.1. Introduction

This chapter traces the historical development of the oil and gas sectors in Nigeria. The chapter specifies the constitutional arrangements over the industry, the regional structure of resources, and key demographics. These issues will be presented with emphasis on the interaction of federalism and oil resource ownership conflict, control or regulation of oil resources, and revenue sharing, particularly the interaction of federalism and conflict over intergovernmental fiscal relations in Canada and Nigeria, and the role of oil in this interaction.

5.2. Evolution of the Nigerian Federation

Nigeria became a federation in 1954 with three regions: North, West, and East. Today, with a population of 186 million (CIA World Factbook 2017), Nigeria is a federation composed of a federal government, 36 states and 774 local governments. This territorial structure encompasses a complex social configuration consisting of over 250 ethnic groups that are classified into three major groups—Hausa-Fulani [29 percent), Yoruba [21 percent], Igbo [18 percent]—and numerous minority groups, and over 500 indigenous languages (CIA World Factbook 2017). Before British colonial rule, these groups were governed separately under different political institutions, such as kingdoms, chiefdoms, empires, and Caliphates and city-states (Oyovbaire 1985, 29).

The process by which the British brought together these disparate ethnic groups and their independent territories to form what is now known as Nigeria occurred in three main phases (Campbell 2011). The first was the annexation of the coastal city of Lagos in 1861 and its declaration as a British Crown Colony in 1862 under the guise of stopping the slave trade (Smith 1979). Oba Dosunmu, then the King of Lagos, had entered into a treaty, some say by force, to cede Lagos to the British "in order that the Queen of England may be the better enabled to assist, defend, and protect the inhabitants of Lagos, and to put an end to the Slave Trade" (Smith 1979, 140), even though strategic consideration of stopping the French, who had indicated interest in Lagos, from occupying the territory, as well as the need to secure trade advantage, also informed British action (Smith 1979). Subsequently, from Lagos, the British extended their influence to the hinterland Yoruba states by signing protection agreements with the kings of these states, who were, themselves, warring against one another (Smith 1979). By the late nineteenth century, most of the Yoruba hinterland was firmly under British protection under the Lagos Colony, even though resistance to British rule continued into the twentieth century in several areas (Ajayi and Roberts 1964).

The second building block of modern-day Nigeria was the Oil Rivers Protectorate (ORP), formed after the Berlin Conference of 1885, which affirmed British 'rights' over the territories now fused together as Nigeria. The Oil Rivers Protectorate was, following the stoppage of the slave trade, the centre of the palm oil trade; it is now Nigeria's main oil-producing region, the present-day Niger Delta states. In 1893, the Oil Rivers Protectorate was expanded and renamed the Niger Coast Protectorate; and in 1900, it merged with the territories controlled by the Royal Niger Company to form the Southern Nigeria Protectorate.[41] The addition of Lagos to the Southern Nigeria Protectorate to form the Colony and Protectorate of Southern Nigeria in 1906 completed the state-formation process of southern Nigeria, and the second phase of the country's state-building process (Campbell 2011).

The third building block was the creation of the Northern Nigeria Protectorate in 1897. The groundwork for the formation of the Northern Nigeria Protectorate was laid by the Royal Niger Company through its trade along the banks of the River Niger and River Benue. But it was the aggressive war of pacification by Lord Lugard, who later became the Governor General of Nigeria from 1914 to 1919, during which he captured several middle belt states and Islamic emirates in what is now northern Nigeria, with the last of these being the defeat of the Sokoto Caliphate in 1903, that firmly gave control of these northern territories to Britain. Due to strategic and economic considerations, the Colony and Protectorate of Southern Nigeria in 1906 and the Northern Nigeria Protectorate were amalgamated in 1914 to form present-day Nigeria (Campbell 2011, 3).

Yet, even after amalgamation in 1914, the north and south were administered separately until the Richards Constitution of 1946 formally created three regions from the existing north and south territories (two regions were created from the south, while the north remained intact) (Osaghae 1998). These three new regions—Northern, Western, and Southern—eventually attained quasi-federal status in 1951 and became autonomous federal units in 1954 with the formation of the Nigerian federation.

It should be pointed out that for all intents and purposes, Nigeria's federation was not created to serve as a bulwark against external threats, but was primarily designed to 'hold together' the country's complex centrifugal identities: two historic regions (North and South), three major ethnic groups (Hausa-Fulani, Yoruba, and Ibo), hundreds of ethnic minorities, and almost equal numbers of Muslims and Christians (Illedare and Suberu 2012).

Following Illedare and Suberu (2012, 231-323), I provide a summary of the five key moments of political

[41] The RNC was a British chartered company, originally known as the United Africa Company when it was formed by George Goldie Taubman in 1879 from a merger of three companies. It changed its name to the National African Company in 1882 and then in 1886 to the Royal Niger Company after receiving the royal charter. The British government paid £865,000 to the company for its territory as well as half of all royalties on minerals produced in the territory for 99 years (Pearson 1971).

development that the Nigerian federation has experienced since its formation in 1954:

• The post-independence First Republic (1960-66), which combined a Westminster-style parliamentary system with a federal structure of three (later four) large, but unequal, regions, each of which was dominated by a major ethnic group—the Hausa-Fulani, Yoruba, and Igbo—and political party controlled by that group.

• The first military interregnum (1966-79), during which the existing four regions were divided into twelve and later nineteen smaller states (in 1967 and 1976, respectively), and during which period one of the original three regions—the Eastern region—tried unsuccessfully to secede from Nigeria, leading to a three-year civil war from 1967 to 1970, and with the end of the war seeing the military embarking on post-civil war reconstruction and consolidation of national unity.

• The Second Republic (1979-83) witnessed the restoration of civilian rule, with this period incorporating the legacies of military political reforms aimed at consolidating national integration and prevention of the governance and electoral crises that led to the collapse of the First Republic. These political manoeuvres included the replacement of the parliamentary system with a presidential system characterized by a strong executive, a constitutional prohibition of regional or sectional parties, and fiscal centralization.

• The second military interregnum, beginning in 1984 when the military re-imposed their rule (first, with Gen. Mohammadu Buhari's military government taking over from Shehu Shagari's civilian government, and the Gen. Ibrahim Babangida-led coup against Gen. Buhari in 1985), lasted until 1999, when the fourth military regime of this era, Gen. Abdulsalami Abubakar's regime, assumed power after the death of Gen. Sani Abacha. Abacha, who ruled as Nigeria's military leader from 1993 until his sudden death in 1998, had himself forcefully taken over power in November 1993 from Ernest Shonekan's Transitional Council, which had been hurriedly instituted in August 1993 by the Babangida military government following the annulment of the June 12 1993 presidential election. This period was characterized by the creation of seventeen more states, thus bringing the number of states to the current thirty-six. It also saw the military's sabotage of its own elaborate program of political transition to a Third Nigerian Republic, which provoked further civil society agitations seeking a restoration of civil rule, as well as state repression and corresponding escalation of centrifugal ethno-regional and religious agitations. Perhaps the most notable of these acts of government repression was the hanging of Ken Saro-Wiwa, the environmentalist and community activist who was canvassing for his Ogoni ethnic minority and oil-rich community.

• Finally, the military withdrew from politics in 1999, and since then, three administrations have ruled under the People's Democratic Party (PDP): those of Olusegun Obasanjo (1999-2007), Umaru Yar'adua

(2007-10), and Goodluck Jonathan (2010-15). The current (at this writing) government of Mohammadu Buhari was elected under the banner of the All People's Congress (APC) in 2015. This democratic period is historic for the length of civilian rule, an amnesty for Niger Delta militants in 2009 who eschewed violence and returned their arms, and the emergence of then-Vice-President Goodluck Jonathan from the minority oil-producing states as President following the death of Yar'adua in May 2010. Jonathan was elected in his own right in 2011, and was defeated by Mohammadu Buhari from the majority Hausa-Fulani group in the general election in 2015. Generally, this period is characterized by the attempts of state governments to assert their autonomy against the vestiges of military rule of the previous era and legacies of centralization. An important feature of the decentralization effort are the campaigns by oil-producing states (and communities) for a larger share of oil revenues, though some of these campaigns have been hijacked by militant groups who use the legitimate grievances of oil-producing communities as a smokescreen to carry out criminal activities, such as kidnapping oil workers, and oil bunkering, or theft of crude oil from deliberately broken pipes.

5.3. Federalism and the Distribution of Ownership and Control Rights over Oil in Nigeria

As successor to the colonial government, the federal government, at independence in 1960, automatically assumed the legislative powers that were previously vested in the British Crown. The federal government's regulatory rights were affirmed in the 1960 and 1963 constitutions. For instance, the 1960 constitution bestowed on the federal government the exclusive rights to "legislate on mines and minerals, including oil fields, oil mining, geological surveys and natural gas in Nigeria". This provision was repeated in the 1963 constitution. These constitutions categorized mines and minerals, including oil fields, oil mining, geological surveys and gas, as functions under an exclusive legislative list.

A major reform of the military government was to domesticate the colonial law and make it applicable to Nigeria as a sovereign country by formally transferring the ownership and control of oil previously vested in the British Crown, especially through the 1946 Mineral Oils Ordinance, to the Nigerian state. Though the 1960 and 1963 Constitutions did domesticate the law, they merely empowered the federal government with the power to 'legislate,' with the implication that the key issue of ownership rights remained unaddressed. The 1969 Petroleum Act promulgated by the military served as a corrective to this lacuna, as it not only transferred the monopolistic legal power conferred upon and exercised by the British Crown to the Nigerian state, it also explicitly underscored that these powers were with regard to both ownership and control. Section 1 (1) of the Act stated that "the entire ownership and control of all petroleum in, under and upon any lands...shall be vested in the State." Indeed, the description of the Act itself was unmistakable in its intention "to provide for the exploration of petroleum from territorial waters and continental shelf of Nigeria, and to vest ownership of, and all onshore and offshore revenues from petroleum resources derivable therefrom in the Federal Government and for other matter

incidental thereto." Besides confirming the "federal government's proprietary rights over Nigeria's petroleum assets," the 1969 Petroleum Act specially vested "the Federal Ministry of Petroleum Resources the authority to issue licenses (to Nigerian citizens or companies incorporated in Nigeria) to undertake activities relating to oil prospecting, exploration, drilling, production, storage, refining or transportation" (Illedare and Suberu 2012).

However, the Land Use Decree of 1978 was a more expropriatory legislation.[42] Illedare and Suberu (2012) point out that the Land Use Decree not only alienated private and communal lands for the government,[43] it also ultimately made the federal government, rather than the state governments, the ultimate owner of the lands. Instituted under the Obasanjo military administration, the Land Use Decree provided that government can appropriate any land for public interest, and thus, "all previous landowners became mere occupiers (tenants/lessees) of their own lands" (Uduaghan 2008). However, while under the Decree "ownership and control of all lands in Nigeria are vested in the Governor of each State" who is empowered to "issue and revoke rights of occupancy over land" (Uduaghan 2008), in relation to oil and other minerals, the power of the governors under the Decree was superseded by the power of the President who, as the representative of the federal government, was vested with the ownership and control of minerals and mines under the 1969 Petroleum Act and the 1979 Constitution, which came into effect one year after the promulgation of the Land Use Act. The provisions of the 1979 Constitution regarding oil were transposed into the 1999 Constitution. Thus, section 44(3) of the 1999 Constitution stipulates:

> the entire property in and control of all minerals, mineral oils and natural gas in, under or upon any land in Nigeria or in, under or upon the territorial waters and the Exclusive Economic Zone of Nigeria shall vest in the Government of the Federation and shall be managed in such manner as may be prescribed by the National Assembly.

Other federal statutory laws (largely military decrees and edicts) through which the government exercises its ownership and control rights over Nigeria's mineral wealth include the 1959 Petroleum Profits Act and its subsequent amendments, the Oil Pipelines Act (1978), the Exclusive Economic Zone Act (1978), the Navigable Waters Act (1979), and the Nigeria Liquefied Natural Gas (LNG) Act (1990, 1993). The EEZ Act, for example, delimited Nigeria's Exclusive Economic Zone as "an area extending up to 200 nautical miles seawards from the coasts of Nigeria" vests on the federal government the powers to "exercise certain sovereign rights especially in relation to the conservation or exploitation of the natural resources (minerals, living species, etc.) of the seabed, its subsoil and superjacent waters and

[42] The Land Use Act is currently reflected in section 315 (5) (d) of the 1999 Constitution.
[43] A concern of this legislation, as pointed out by critics, is that such alienation of land has redefined the "absolute ownership right" that individuals or communities previously hold on their lands into "mere right of occupancy," but compensation for these alienated lands assesses the value of the land that the landowner(s) are entitled to "based on 'surface goods' lost" without consideration for "the long-term implications of loss of access to critical livelihood resource" (*Nation* 2013).

the right to regulate by law the establishment of artificial structures' and installations and marine scientific research, amongst other things."[44]

5.4. Regional Context of the Oil Industry in Nigeria

Nigeria is the largest oil producer in Africa, producing about 1.9 million barrels per day (bpd) of oil in 2015, even though oil production has been hampered in recent times by violence, including sabotage and theft, in the Niger Delta region. As a result of this violence, Nigeria was unable to meet its peak production volume of about 2.44 bpd (U.S. Energy Information Administration 2016). The country has about 37 billion barrels of crude oil reserves, the second largest reserves on the African continent in 2015 (U.S. Energy Information Administration 2016), and also has an estimated 181 trillion cubic feet (tcf) of proved natural gas reserves in 2014, with its liquefied natural gas (LNG) exports the fourth largest in the world in 2015 (U.S. Energy Information Administration, 2016).

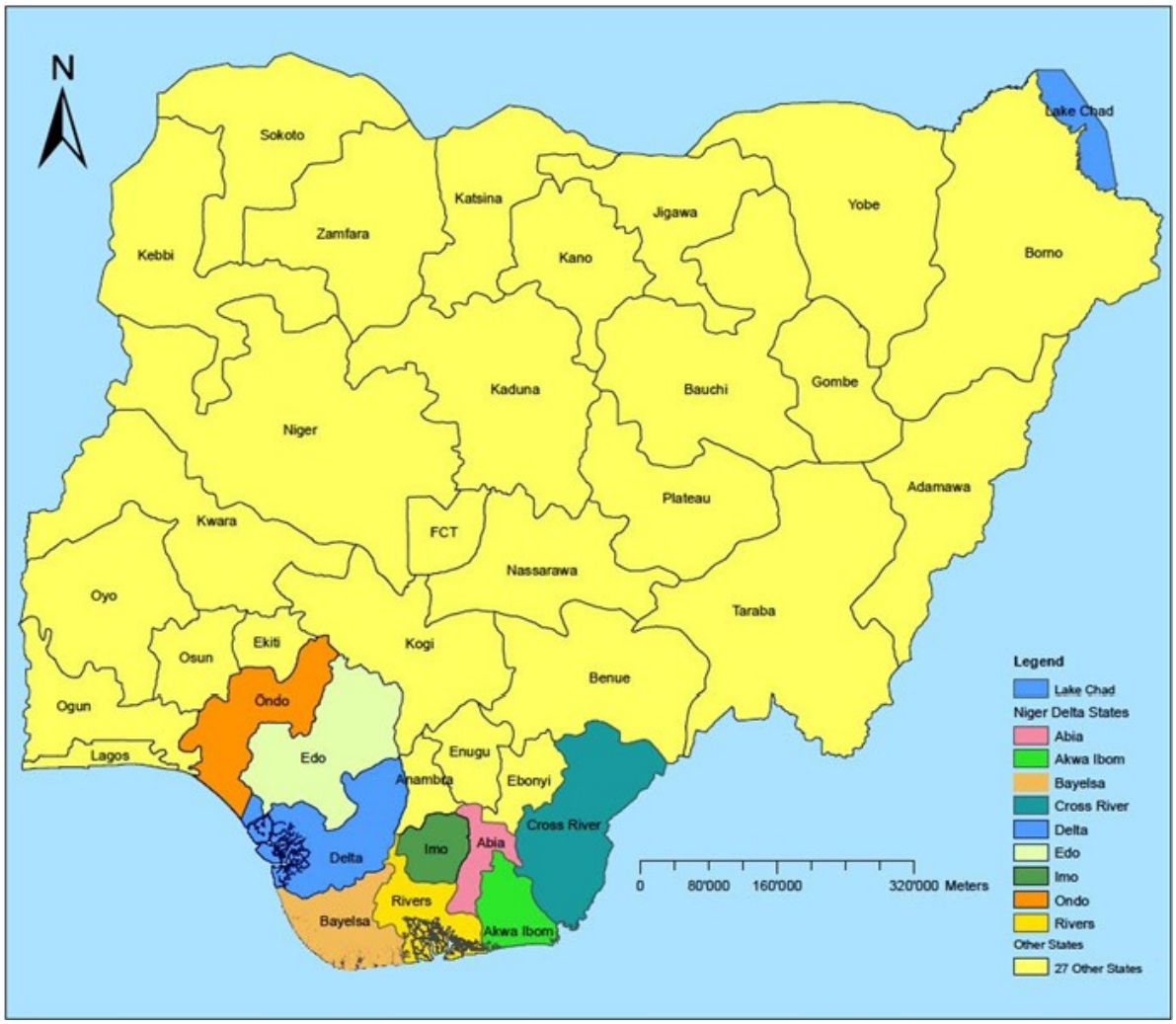
Oil and gas accounted for 95 percent of Nigeria's total exports, and 70 percent of total government revenues (International Monetary Fund 2015). Oil and natural gas resources are found in various quantities in nine of the 36 states, where most of the country's 606 oil fields, consisting of 355 onshore and 251 offshore fields, are located (NNPC 2010c).

About 91.5 percent of oil production takes place in six of the nine[45] oil-producing states located in the Niger Delta or South-South geopolitical zone. Together, these states—Akwa Ibom, Bayelsa, Cross Rivers, Delta, Edo, and Rivers—account for 15 percent of Nigeria's total population. Of these Niger Delta states, four—Akwa Ibom, Bayelsa, Rivers, and Delta—are regarded as the 'core' oil- producing areas, because most of the oil production takes place in these states. Edo and Cross Rivers states in the south-south geopolitical zone, Ondo state in the South-west zone, and Abia and Imo in the Southeast zone, are the 'non-core' oil producing states, accounting for 8.5 percent of total oil production (Iledare and Suberu 2012).

[44] http://extwprlegs1.fao.org/docs/pdf/nig2026.pdf

[45] Lagos recently joined the league of oil producers (bringing the number of oil-producing states to ten) with the commencement of the first oil production and first shipment of oil from the Aje field, offshore from Lagos, to the United Kingdom in May and September, respectively. The oil production was a partnership between Panoro Energy, a London-based energy firm, and Yinka Folawiyo Petroleum Company Limited (YFP), the operator of the oil field (Adugbo 2016).

Figure 1: Map of Nigeria Showing the Nine Oil-Producing States



Source: Ite et al. (2013).

Nigeria's peak oil production is about 2.4 million barrels per day; however, it has been unable to meet its OPEC quotas due to attacks on oil facilities by militants operating in the Niger Delta. These attacks openly began after a long hiatus that coincided with President Umaru Musa Yar'Adua's granting of amnesty, monthly cash payments, and vocational training to "repentant" militants in 2009. The amnesty program provided each of the more than 25,000 militants with monthly salaries of over ₦50,000, a sum "well above the wage that can be plausibly commanded by an educated youth in the formal sector" (Watts 2009, 88). The vocational training programs at universities in Nigeria and abroad for pardoned militants further added up to a combined yearly cost of about $500 million (Onuoha 2016).

Yar'Adua was president from 2007 to 2010, and upon his death in May 2010, Vice President Goodluck Jonathan, who came from the Niger Delta, stepped in as president. He was elected as president in the general election of 2011. Several high-profile leaders of the militant groups, which later coalesced

under the banner of the Movement for the Emancipation of the Niger Delta (MEND) and led attacks on oil facilities between 2006 and 2009, were offered lucrative government contracts to protect the oil pipelines (Onuoha 2016). This development ushered in relative peace, which helped guarantee increase in the export of petroleum from 700,000 bpd in mid-2009 to about 2.4 million bpd in 2011 (Onuoha 2016). However, the patronage system did not address, and in some ways intensified, the sense of marginalization, corruption, and inequality that led to frustration in the oil community.

Although the amnesty program appeared to foster relative peace in the Niger Delta, this peace masked continuing oil theft, which increased dramatically in that period despite the payment of ex-militants to safeguard oil pipelines. Following Goodluck Jonathan's defeat in the 2015 election and Mohammadu Buhari's revocation of those contracts, several other militant groups, including the Niger Delta Avengers (NDA), conducted attacks on oil facilities and installations, threatening to cripple the economy. This recent wave of militant attacks has cut Nigeria's oil output to a 22-year low, with oil production plummeting from an average of 2.2 million bpd to about 1.4 million bpd in 2016 (Onuoha 2016) as a result of supply disruption following suspension of oil exports at Nigeria's largest export streams: Forcados, Qua Iboe, Bonny Light and Brass River (Abdallah and Adugbo 2016). This situation worsened the effects of decreasing oil prices on Nigeria's economy. It is estimated that Nigeria lost $1.064 trillion, or 55% of the country's projected revenue, in the first six months of 2016 (Abdallah and Adugbo 2016). This revenue shortfall, combined with cutbacks in gas supply to power plants, further weakened Nigeria's electricity production, with negative consequences for economic productivity.[46]

Outside the Niger Delta, the prospect of significant oil findings has not been bright. Of the 28 exploratory oil wells drilled outside the region's six states, only a few wells in the south-eastern states of Imo and Abia and south western state of Ondo, and more recently Lagos, have been productive. Outside the south, despite the exploration in the Northern sedimentary basins and the discovery of some wells in the Benue trough and the Chad Basin, "production is yet to commence from any of the wells" (NNPC 2010c). Whereas previous federal governments blamed the inability to produce oil in the region on the non-discovery of commercially viable oil, northern political elites have explained this situation as part of a grand plan to prevent states in the region from becoming oil-producing states like their counterparts in the south, an allegation that seems curious given that the geopolitical north has produced more presidents than the south since independence in 1960, even though thirteen of the

[46] A paradoxical development is the decrease in oil theft during the period that the country witnessed resurgent attacks on oil facilities in the oil-producing region. This point was highlighted by Shell, which stated in its annual sustainability report that in 2016, "the volume of oil stolen from its joint-venture operations in Nigeria fell to 5,600 barrels" which "represents a 77.6 percent fall from 25,000 bpd in oil thefts in 2015" (Donovan 2017). While Shell stated that this development was "partly due to better air and ground surveillance and anti-theft mechanisms installed on equipment," it is not clear whether state security played a role in this.

seventeen years of civilian rule since 1999 have featured presidents from the south. For instance, in 2000, the Nigerian National Petroleum Corporation (NNPC) had withdrawn from the search for oil in the Chad Basin after its 15-year effort exploring for oil in the region (and after drilling 24 dry wells and two wet gas wells costing over N10 billion Naira) proved abortive (*The Guardian*, August 9, 2006). The withdrawal and failure of the NNPC to resume the search thereafter provoked scathing criticism from the northern elites who accused the NNPC of insincerity, double standards, and deliberately preventing the North from benefiting from oil. As argued by Abdullahi Adamu, then the Nasarawa state governor, the federal stoppage of oil exploration in the North could not simply be explained by the non-availability of oil in the area: "There is oil exploration in the Lake Chad area, for instance. It is not possible that the Chad Basin yields oil on one side and not on the Nigerian side. The northern north, if you would permit the expression, has the same geological features as Libya, a major oil-producing country. Have we exhausted our efforts in exploring for oil in those parts of the country?" (Adamu 2005). In its 2001 fact-finding mission regarding why exploration work was discontinued in the Benue trough and the Chad Basin, the Senate Committee on Petroleum Resources questioned the abrupt stoppage of exploration before it had progressed beyond the shallow depth where hydrocarbons could be discovered in commercial quantities, arguing that memoranda presented to it during their public hearing were to the effect that "exploration activities undertaken through the drilling of wells in the zone do not appear to have attained incontrovertible depths in the region" noting that "while the sedimentary rocks in the area lie 6,000 meters below earth surface, the deepest wells drilled by the companies reached depths of less than 3,000 meters" (Nkemjika and Matori and Matori 2003, 35). A key reason highlighted by Alex Kadiri, one of the members of the Senate Committee on Petroleum Resource, as to why oil has not been fully exploited in the north was that existing oil in the Niger Delta was crowding out the search for oil in other regions of the country; Kadiri argued that the "unenthusiastic attitude of the NNPC to the search for hydrocarbons in the two Troughs (Benue and Chad)" was "because of the availability of the cheaper source within Nigeria's territorial waters and also offshore," and concluded that "if oil in the Niger Delta which is cheap to source were not there, more attention would have been paid to the drive for sourcing for hydrocarbons in the two troughs in the North" (Nkemjika and Matori and Matori 2003, 37). This position seems to align, in a sense, with those of Niger Delta elites who regarded the federal government's fixation on their oil as a reason why other minerals are not as fully developed as oil (*Sunday Punch*, July 03, 2005).

On coming to power in 2015, Mohammadu Buhari made oil exploration in northern Nigeria his government's priority, and this seems to have paid off with the reported discovery of oil in some North-eastern states (Oyetunji 2016). It remains to be seen how oil production in this geographical region will affect intergovernmental conflict over oil. With the overwhelming dependence of states, especially in the north, on oil revenues, I suspect that the discovery of oil in a few states around the Lake Chad Basin or elsewhere in the north may reduce the opposition from these states who would benefit more

from oil, as these states would benefit based on the application of the derivation principle on oil produced in their territorories. However, other non-oil-producing states would not support reforms such as an increase in the percent of derivation principle. The overwhelming dependence on these states on redistributed oil revenues for their budgets means that the more oil revenues are allocated on the basis of derivation for oil-producing states, the less there is left to be deposited in the Federation Account for distribution to all governments.

5.5. Exploration and Production Regime of Oil in Nigeria

From its beginning, when concession rights were granted to only one company, Shell-BP, there are currently over 30 oil companies operating in the Nigerian oil industry, with four of these—Shell Petroleum Development Company (SPDC), Exxon-Mobil, Chevron Nigeria Limited (CNL), and Total (the former Elf Petroleum Limited)—accounting for over 80 percent of the country's total production, while the remaining 20 percent are carried out by new entrants into the field, such as the Korean National Oil Company and China National Oil Company (Iledare and Suberu 2012, 228).

There are two key fiscal regimes for the funding of Nigeria's major oil projects. These are the joint ventures (JV) between International Oil Companies (IOCs) and the Nigerian National Petroleum Corporation (NNPC), with NNPC acting as the majority shareholder; and the production-sharing contracts (PSCs) with IOCs (U.S. Energy Information Administration 2016). The basic difference between the two is that, while JV arrangements are the fiscal regimes through which onshore/shallow-water projects are typically governed, deepwater projects are typically, but not always, governed by PSCs. Given the risk and huge cost demand of deep water exploration and production activities, which, unlike the JV arrangements, are borne by the company alone (Laryea 2011), the PSC terms on deepwater projects are more attractive and favourable than those of JV arrangements, and were designed as such in order to incentivize the development of deepwater projects (U.S. Energy Information Administration 2016).

Generally, the JV arrangements were the early forms of fiscal regime used, with the Nigerian federal government granting two types of licences to IOCs: the Oil Prospecting Licences (OPLs) for exploration to oil producers, with a validity of five years; and Oil Mining Licences (OMLs) for production, with a validity of twenty years (NNPC 2010c). The PSCs are more recent arrangements in which the government relinquished its status as formal partner and each of the oil production companies serves as “the operator” of the PSC, bearing all investments and risk associated with exploration and production activities, and is allowed to recover its infrastructure investments “before sharing profits with the federal government” (International Crisis Group 2006, 23). Importantly, the shift from JV to PSCs was also influenced by the repeated failure of the NNPC to fulfil its counterpart funding commitments to the JV (Illedare & Suberu 2012).

The fiscal regime between Nigeria and the major IOCs is governed by the JV arrangements, with each joint venture being governed by a Joint Operating Agreement (JOA) between the IOC and the NNPC. Under the current JOA, the NNPC—the majority shareholder—controls 55 percent of assets in the JV arrangement with Shell (30 percent), Elf (10 percent) and Agip (5 percent); and 60 percent in each of the other five JV arrangements with Mobil Producing Nigeria Unlimited (MPNU), Chevron Nigeria Limited (CNL), Nigerian Agip Oil Company Limited (NAOC), Elf Petroleum Nigeria Limited (EPNL), and Texaco Overseas Petroleum Company of Nigeria Unlimited (TOPCON), with each of these companies (except Agip, which shares 20:20 with Phillips Petroleum; and Texaco which shares 20:20 percent with Chevron) holding 40 percent of the assets or interests (Nigerian National Petroleum Corporation 2010). The OICs act as the minority shareholders as well as the operators. It should be pointed out, however, that the IOCs were not without significant leverage, for "while the government formally commands the joint ventures with its ownership equity, the foreign oil companies control the day-to-day operations of the joint ventures" (Frynas 2000, 33).

Table 5: NNPC Joint Venture Arrangements with IOCs

Operator	**(% interest)**	**Other partners (% interest)**	**NNPC (% interest)**
Shell	(30)	Elf (10); Agip (5)	
Agip	(20)	Phillips (20)	
Mobil	(40)	None	
Chevron	(40)	None	
Elf	(40)	None	
Texaco	(20)	Chevron (20)	

Source: Nigerian National Petroleum Corporation (2010)

The power of the federal government over oil is largely exercised by the state oil company—the NNPC—which, in Section 5 (1) of the NNPC Act, Cap. 320, Laws of the Federation of Nigeria, 1990, was vested with the power to explore, prospect for, work, win or otherwise acquire, possess and dispose petroleum. Accordingly, the NNPC not only enters into business with IOCs on behalf of the federal government, but also carries out commercial enterprise on its own. For instance, working through its subsidiary, the Nigerian Petroleum Development Company (NPDC), the NNPC "is directly responsible for four oil and gas fields with a total production of 15,000 bpd" (NNPC 2010d). Yet, the NNPC has been unable to

satisfactorily carry out its functions as the commercial and business agency of government in the oil industry, a fact egregiously demonstrated by its inability to refine petroleum for local consumption. With more than $1 billion committed to the repair of Nigeria's four malfunctioning refineries between 1999 and January 2007, these refineries still do not function satisfactorily (Nwokeji 2007, 35). Indeed, due to this persistent mismanagement, the refineries "produce only around half of their combined potential capacity of 438,000 bpd" (Gillies 2009, 3). This has led to a contradiction in which Nigeria, Africa's biggest oil producer, imports about 80% of the refined petroleum products used by its population (Sanders 2010). This has come with huge yearly costs in subsidy paid by the government, through the NNPC, to importers to defray the difference between subsidized domestic petroleum prices and market prices. The subsidy in 2010 alone was estimated at 520 billion naira or $3.4 billion (Sanders 2010).

5.6. Historical Overview of the Development of the Oil Industry in Nigeria

5.6.1. Early Beginning

The first legislation regarding crude oil in what is now Nigeria was the Petroleum Ordinance of 1889, which was a law to regulate the importation of oil to the Colony of Lagos in order "to provide for the safe-keeping of petroleum and other inflammable and dangerous substances" (Speed 1902, 613). This was followed by the Mineral Regulation (Oil) Ordinance of 1907, which stipulated that "only British subjects or companies controlled by British subjects would be eligible to explore for Nigerian oil resources" (Omoregbe 1987, 273).

Thus, even before the 1914 amalgamation, British control over oil in Nigeria was evident. Following the Mineral Regulation (Oil) Ordinance of 1907, an oil prospecting license was given out by the British in the Colony and Protectorate of Southern Nigeria in 1908 to the Nigerian Bitumen Corporation (NBC).[47] After drilling 14 unsuccessful wells in Araromi, an area in present-day Lagos, the pioneering exploration operation of NBC was abruptly halted with the onset of the First Word War in 1914 (Nigerian National Petroleum Corporation 2010a**).** Following amalgamation and the creation of Nigeria in 1914, the British

[47] There has been some confusion, given the law restricting licenses to British companies, how this company, which Frynas (2000, 9) described as a "Nigerian subsidiary of a German company," was able to win an exploration permit. However, Carland (1985, 184) showed that the exploration license won by NBC was indeed facilitated by John Simon Bergheim, a British businessman and the chairman of the NBC, who convinced the British Colonial Office and the Government of Southern Nigeria of the availability of oil and indicated the capability of his company to prospect for oil. Carland further argued that the interest of the NBC aligned with the interest of Britain to expand its search for oil in different parts of the British Empire, and even territories outside the Empire such as Persia, in furtherance of the need for steady and reliable supplies of oil to ensure the changeover of the British Royal Navy from coal-powered to oil-powered ships as well as provide money for the Colonial government in Southern Nigeria. The permanent officials of the Colonial Office therefore not only accepted Bergheim's request, but also protected his monopoly, wrote favourable mining laws to entrench this monopoly at Bergheim's request, and even provided loans for the NBC to support its exploration activities.

promulgated the Mineral Oil Ordinance, which also restricted licenses and leases for oil exploration to British companies in the new country (Bamberg 2000, 109). Section 6(1a) of the Ordinance stated that "no lease or license shall be granted except to a British subject or to a British-registered company in Great Britain or in a British Colony and having its principal place of business within her Majesty's dominions, the Chairman and the managing director (if any) and the majority of the directors of which are British Subjects."[48] The British, realizing the key role of oil in the World War that began in July of 1914, promulgated the ordinance in December of that same year in order to monopolize oil and undermine any competition from other world powers. In addition, this law supports the aggressive drive of the British Royal Navy to secure oil, which would ensure a much-needed transition from coal to oil that was central to the commitment of Winston Churchill, then First Lord of the Admiralty, for the consolidation of the British Navy's supremacy through oil-powered naval ships, especially oil-fired battleships that would increase speed and fighting efficiency (Yergin 2008; Steyn 2009).[49]

5.6.2. Oil Discovery and Aftermath

However, it was not until 1938 that the consortium known as Shell and D'Arcy Exploration Parties (later known as Shell-D'Arcy Petroleum Development Company of Nigeria in 1951, later renamed as Shell-BP in 1956[50], and currently known as Shell Petroleum Development Company of Nigeria [SPDC])—became the beneficiary of this policy, as it won the sole rights to explore for oil in the whole of the country's 357,000-square-mile territorial area (Pearson 1970; Frynas 2000). However, the company had to suspend recognisance operations as a result of the Second World War. Work picked up again after the war in 1947, but in 1949, the company reduced its area of exploration from the entire country to the southern coastal basin, covering an area of about 60,000 square miles, including the Niger Delta (Bamberg 2000). After several exploration attempts between 1951 and 1954, which produced dry holes in the Ihuo well ten miles north-east of Owerri, and the Akata well on the eastern edge of the Niger Delta where non-commercial oil was discovered (Bamberg 2000), the company eventually discovered oil in commercial quantities at Oloibiri, in present-day Bayelsa state, in 1956. Further discoveries followed thereafter as the company expanded its exploration activities with another promising discovery, the Afam oil field, in 1958. The company started producing crude oil a year after the first discovery at Oloibiri, and

[48] 'Mineral Oils' were defined in Section 2 of the Mineral Oils Ordinance 1914 as including "bitumen, asphalt, and all other bituminous substances with the exception of coal."

[49] Even though Churchill was convinced of the importance of oil for naval power, he also knew that Britain did not have oil, and so was committed to securing oil for Britain "by sea in peace and war from distant countries" (Yergin 2008, 140). With the Anglo-Persian Oil Company (APOC) viewed as central to Britain's grand imperial strategy to upgrade the Royal Navy from coal to oil, Churchill helped convince the British parliament, just before the outbreak of World War I, to approve the country's acquisition of 51 percent shares in APOC (Meyer & Brysac 2010).

[50] Shell-BP "was jointly financed by the Royal Dutch/Shell Group of Companies and the British Petroleum (BP) Group on an equal basis." See http://www.shell.com.ng/aboutshell/our-business/bus-nigeria/e-and-p/spdc.html

exported the first crude shipment to Rotterdam in 1958 (Steyn 2009). 5,100 barrels of oil were produced in Oloibiri and Afam for export in 1958 (Nigerian National Petroleum Corporation 2010a; Bamberg 2000).

Even though the colonial government had taken the lead in regulating oil exploration through the Mineral Oils Ordinance of 1914, there was no explicit provision regarding ownership rights of oil (Ebeku 2006). To clarify this issue, and prevent any doubt regarding the real ownership of oil, which the British Colonial officers claimed had prevented exploration of oil in the United Kingdom (Elumelu 2007), Section 3(1) of the Mineral Oil Ordinance of 1946 (itself an amendment to the Mineral Oils Ordinance of 1914) provided that "the entire property in and control of all Mineral oil in, under or upon any lands in Nigeria and of all rivers, streams and watercourses through Nigeria is and shall be vested in the Crown save in so far as such rights may in any case have been limited by any express grant made before the commencement of this Act." By vesting ownership rights in the British Crown in unmistakable wording, the goal of the Mineral Oil Ordinance (as amended in 1946) was to forestall any potential challenge from any Nigerian community to the Colonial government's proprietary. A 1950 amendment of Section 3 (1) of the Mineral Act 1946 extended the British Crown's ownership and control of mineral oil to submarine areas of Nigeria's territorial waters (Onyekonwu 2007).

Following the reduction of Shell-BP's original concession, which exclusively covered the whole Nigerian territory of 357,000 square miles, to 58,000 square miles, and its restriction to southern Nigeria, in 1951, and further reduction to 40,000 square miles, the spheres of operation of Mobil (previously Socony-Vacuum) which received its exploration license in 1955[51] and other non-British companies who were later granted these rights in the early to mid-1960s (Tennessee, in 1960, Gulf [later Chevron] in 1961, American Overseas Petroleum Ltd. [AMOSEAS, later Texaco] in 1961, Agip in 1962, SAFRAP [later Elf] in 1962, Philips, and Esso in 1965 respectively) were restricted to areas abandoned by Shell-BP, especially the oil resources in the offshore area and the north, which, for example, were explored by Mobil (Frynas 2000, 11). Thus, although Shell-BP had a market niche above other companies in the onshore oil area, it also had to compete from the beginning with these companies for an edge in the offshore sector (Frynas 2000). By 1965, oil exploration in Nigeria was carried out by a total of nine IOCs (Frynas 2000).

However, Shell-BP's head start as sole concessionaire in a geographical territory not previously explored gave it dominance over others, and this advantage is reflected in the number of oil fields it holds compared to those of its competitors, who joined the field during the terminal period of colonial rule and after independence. For instance, by 1970, Shell-BP had seventy oil fields, an increase of twenty

[51] Although the Mineral Oil Ordinance of 1914 disqualified non-British companies from acquiring licenses to explore in Nigeria, Socony-Vacuum (later Mobil), a US company, circumvented this provision, albeit with British government support, by forming a local franchise company with British citizens as majority members of the board of directors and a British chairman (Frynas 2000, 11-12). However, a 1958 amendment of the 1914 Mineral Oil Ordinance opened up the field for participation by non-British firms.

from its fifty oil fields in 1965, and accounted, in spite of the lapse of its monopoly in the sector, for "three quarters of Nigeria's crude production" and "10 per cent of BP's crude production" (Bamberg 2000, 112). However, Shell's dominance is limited to onshore oil fields.

Besides the fact that offshore oil is a relatively new field whose early emergence was hindered by the absence of technology for exploration, Shell's dominance in the offshore field was hampered by a law passed by the Nigerian Council of Ministers in its 19th Meeting of July 22, 1959, which limited the number of new licences to be granted to any one company to explore in the continental shelf to "not more than four blocks of 1,000 square miles each" (cited in Frynas 2000, 11). Chevron, Texaco, and Mobil pioneered exploration in the offshore field in Nigeria, with companies such as Chevron making discovery and production in 1964 and 1965, respectively.

It should be pointed out however, that while "by the end of the colonial era...the significance of Nigeria's oil industry did not lie so much in the actual oil production but rather in its potential for future expansion" (Frynas 2000, 11), given that in 1960, production in Nigeria accounted for only 1.8 percent of the crude oil production of the British Commonwealth, such hope in the potential of the oil industry for Nigeria's future seemed realistic against the background of the entrance of American IOCs into the Nigerian oil industry, a development that the British encouraged in 1958 by repealing the provision of the Mineral Oil Ordinance of 1914 (as amended in 1925, 1950, and 1958) that prohibited the granting of concession rights to non-British companies (Frynas 2000, 13), and which helped to increase the pace of oil exploration. Frynas (2000, 11) noted that by 1971, Nigeria "had become the largest Commonwealth oil-producing country," accounting for about 41.1 percent of the total crude production in the Commonwealth. In actual figures, oil production increased from 5,100 bpd in 1956 to 2.0 million and 2.4 million bpd in 1972 and 1979, respectively (NNPC 2016).

Also, according to Pearson (1970) and Bamberg (2000), although BP's oil fields in Nigeria were smaller than those in the Middle East, oil in Nigeria nevertheless remained a more attractive prospect than the Middle-Eastern fields. This was because of the low sulphur content of Nigeria's oil, which compared favourably to the high-sulphur crudes of the Middle East, and which made it attractive at a time that the world was increasingly becoming aware of the risks of pollution. Nigeria's proximity to consumers in US and Western Europe, two of the world's largest energy markets (Pearson 1970; Bamberg 2000; Okonta 2013), was also a factor.

Arguably, the most important reason why Nigeria was an attractive alternative to Middle East oil was that Nigeria "seemed in the early 60s to be politically stable and moderate" (Bamberg 2000, 113), with no potential threat of nationalization attack. This compared favourably with the Middle East, particularly in light of two major events that manifested worrying signs of political instability that could affect British oil security. These were the nationalization of the Anglo-Iranian Oil Company (AIOC) by

Iran in 1951, and the 1956 nationalization of the Suez Canal in Egypt. The Suez Canal was a major international passage through which oil from the Middle East would pass to Western Europe, the destination of 1.2 million of the 1.5 million bpd of oil that passes through the canal; the British owned about a third of the ships that passed through the canal during that period (McDermott 1998). Indeed, as the British were preparing to terminate colonial rule, they acted to ensure that Nigeria would remain relatively stable by transferring power to what they considered a moderate Nigerian political party or party coalition (Tignor 1998). Louis (2006, 463) observed that "the quasi-democratic reforms of 1951-1952 in Ghana and Nigeria were aimed at bringing conservative chiefs and their moderate nationalist spokesmen into executive government, strengthening the popularity of these traditional allies of colonial administration against their radical critics." In its 1952 Memorandum on "The Problem of Nationalism" in British territories in the non-western world, the British Foreign Office committed itself to make efforts "to prevent nationalism getting out of control...by creating a class with a vested interest in cooperation."[52] The colonial office realized the difficulty in using authoritarian means to curtail uncompromising nationalists such as Obafemi Awolowo in Nigeria and Kwame Nkrumah in Ghana; thus, the goal during the terminal period of British rule became how to win the "goodwill of amenable national leaders…. before independence" in order to have a guarantee of their continued support after independence (Louis 2006, 490-91). In other words, with the imminent end of Britain's formal control over its overseas territories, the attention of the British Cabinet office shifted to how to foster the "economics of dependence" that would lead to the creation of an "informal empire" in Africa (Louis 2006, 492). While colonialism sharpened ethnic and regional identities in Nigeria, "British indirect rule in Nigeria generally privileged the northern ruling class […] with whom the British cemented a class alliance against those they took to be radical, and uppity, educated southern nationalists" (Watts 1992, 33). The pro-British party was the Northern People's Congress (NPC), which fit into the crucial need for successor governments that were "willing and able to preserve their economic and political ties with the West" (cited in Louis 2006, 492). Even though the colonial officers did not like Ahmadu Bello, the head of the NPC and premier of the northern region, who was described in a confidential Commonwealth Relations Office Document as a conservative leader "identified with the preservation of out of date feudal institutions and social backwardness" (cited in Uche 2008, 118), he and his party were preferable to the two southern parties and their leaders who had openly professed radical anti-British sentiments. Yet, the task of installing a sole successor proved difficult, as the NPC could not win an absolute majority vote in the 1959 parliamentary election. This development forced the British colonial administrator to bend backwards to support the NCNC, which came second in the election to form a coalition government with the NPC. Even though the British colonial administrators loathed both southern parties and would not entrust them with protecting British interests if they assumed power at the national level, the NCNC

[52] In *British Documents on the End of Empire*, Series A, vol. 3, *The Conservative Government and the End of Empire, 1951-1957*, ed. David Goldsworthy, cited in Louis (2006, 463).

as the NCP's coalition partner seemed preferable to the AG, as the AG and its national leader, Obafemi Awolowo, had espoused a Soviet-style statist economic policy that the British considered a potential threat to the economic and commercial interests they would leave behind in Nigeria (Tignor 1998). The British, who wished to maintain the favourable terms of agreement between Shell and Nigeria even after they had departed, were not comfortable with such economic nationalism or the "economically interventionist state" espoused by the AG and its leader (Tignor 1998, 270). Tignor noted that "although the NCNC, too, had a left-wing, quasi-socialist bloc, which originally crystallized in the Zikist movement and was later revived in the Zikist National Vanguard, the main core of the NCNC embraced private business, including foreign capital" (Tignor 1998, 264). With the increasing prospect of exports of oil found in the Eastern region, there also arose the corresponding prospect that the Eastern region governed by the NCNC would benefit more from oil revenues based on the existing derivation formula of distributing centrally collected revenues, under which 50 percent of mineral rents and royalties were returned to the region of origin. The NCNC had a vested interest in creating a "favourable business climate for the two multinational oil firms working in the region—Shell-BP and Mobil Oil" and hence "opposed the AG's frequent calls for state control over mining sector, including oil" (Tignor 1998, 264). Predictably, the British were more comfortable supporting the coalition between the NCNC and the NCP, with Tafawa Balewa of the NCP forming the government as premier while Nnamdi Azikiwe served as the Governor General in 1960, and later, president in 1963 when Nigeria became a Republic.

5.6.3. Military Rule, Civil War, and Oil

However, the First Republic was short-lived, as governance crises following the census crisis of 1962-63, the 1964 federal election crisis, and the Western region election crisis of 1965-66 contributed to the military coup, led by predominantly Igbo military officers, in January 1966, in which the civilian government was toppled (Suberu 2001). Aguiyi Ironsi, an Igbo, was the most senior military officer who had himself seized power from the coup plotters and was installed as Head of State (Suberu 2001). He attributed the governance crises that bedevilled the First Republic to morbid regionalism and 'tribalism' and promulgated the Unification Decree 34 of May 1966, which abolished the regions (which were replaced with a group of provinces) and federalism, and "introduced a unitary system of government" (Ironsi 1966), including a unified public service. However, this move prompted a counter-reaction from the Northern region, whose elites felt that a unitary government would not favor it, and viewed the unification agenda as an attempt by Igbos in the Eastern region (the ethnic group of majority of those who led the coup, which Ironsi, himself also an Igbo, capitalized on to become Head of State) "to replace Hausa-Fulani with Igbo hegemony" (Suberu 1996, 21) and domination (Ekpebu 1969). The north showed its disapproval of the coup in which northern leaders and senior military officers were killed and the Unification Decree by rioting, in which Igbos were targeted and killed in parts of the Northern region (Ekpebu 1969). The peak of the response was the counter-coup by young army officials from the north,

in which Aguiyi Ironsi was killed and a compromise candidate, Yakubu Gowon, from the minority ethnic Angas group, was installed by the putschists as the new Head of the Federal Military Government (Ekpebu 1969). Aware of the sensitivity of federalism, Gowon reversed the Unification Decree and replaced it with the Constitution (suspension and modification) Decree no. 9 of 1966, which restored federalism. However, Emeka Odumegwu Ojukwu, the military governor of the Eastern region, refused to recognize Gowon's authority as Head of State (Falola and Heaton 2008). Also, Ojukwu was aggrieved over the killings of his ethnic group, the Igbo, in the north (Ojukwu 1969). Efforts to resolve the grievances of Ojukwu and the Eastern region at a peace conference held in Aburi, Ghana, failed, as both Gowon and Ojukwu interpreted the agreements differently, especially regarding whether the country should have a federal or confederal institutional design. Even though Gowon had through Decree No. 8 of 1966 further empowered the regions, Ojukwu insisted that the agreement obligated Gowon to declare the country a confederal state, but Gowon disagreed with this claim (Ekpebu 1969; Elaigwu 1986). Ojukwu threatened that without Gowon declaring the country as a confederal union in which his ethnic Igbo would have more autonomy to protect themselves, he had no option but to opt out of the Nigerian federation. With the deadlock, Ojukwu sought the approval of an informal advisory body in the Eastern region—the Eastern Region Consultative Assembly (ERCA)—to declare the Eastern region a sovereign state. On May 30, 1967, Ojukwu announced that the eastern region was seceding from Nigeria to form the Republic of Biafra, with Ojukwu justifying this move by citing the "massacre" of Igbo people in the Northern region, which, given its "widespread nature….and its periodicity May 29, July 29, and September 29 show first, that they were premeditated and planned, and second that Eastern Nigerians are no longer wanted as equal partners in the Federation of Nigeria" (Ojukwu 1969, 182). The war, which began earnestly in July 1967, lasted until January 1970, with over 1 million people considered to have died, mostly from famine.

One of Gowon's principal moves to prevent the war was the creation of 12 states from the existing four regions, with two of these states created for the minority ethnic groups in the Eastern region on whose lands the country's oil wells were actually located. This decision was partly to ensure a balance of the Nigerian federation, in which the north had more population and landmass than the three other regions, and to enhance the autonomy of ethnic minority groups who complained even during colonial rule of being oppressed and marginalized by the majority ethnic groups in the regions. The reorganization of the four-region federal arrangement into 12 states on May 27, 1967, the very day that Ojukwu was mandated by the ERCA to declare the region an independent state, was also a deft political move designed to undermine the support of the ethnic minority groups in the then-Eastern Region for the secession bid of the Igbo-dominated Eastern Region government led by Odumegwu Ojukwu, the region's military governor (Suberu 2001). In this reorganization, the Eastern Region was divided into three states, with the minority ethnic groups gaining two of these three states. Obi (2001) attributed the support of the minority ethnic groups in the Eastern region for the federal government during the war, and which eventually contributed to the federal government's defeat of the Biafran forces, to the creation of

states for the minority groups. Suffice to say that while the territorial reorganization provided some form of political autonomy to the minority groups, it nevertheless led generally to the accretion of the powers of the federal government. As former Vice-President Alex Ekwueme noted, "with every increase in the number of states, the individual states became smaller in size, and population and less able to exercise the functions and discharge the responsibilities assigned to the three regions at independence" (Ekwueme 2002).

As I point out in subsequent sections, reforms by the military have had an enduring legacy on the contours of intergovernmental relations in general, and intergovernmental fiscal relations regarding oil in particular. These changes, starting from the creation of 12 states from the existing four regions that existed before the military coup of 1966, as noted above, were decisive, especially given the successive critical junctures of civil war and the oil price crises of the 1970s that shaped decision-making during the first military interregnum between 1966 and 1979. As will be discussed later, some of the oil-related reforms by the military government during the civil war included a 1967 profits tax change, in concert with OPEC terms, which saw oil companies operating in Nigeria paying much greater petroleum taxes than before, and the 1969 Petroleum Decree that vested ownership and control of oil in the Nigerian government and provided that oil licenses—Oil Exploration Licence (OEL), Oil Prospecting License (OPL), and Oil Mining Lease (OML)—can only be won by Nigerian citizens or companies registered in Nigeria (Okonta 2013).

Ross (2003, 3) noted that while the attempt at secession, which led to the civil war, was "deep rooted in ethnic tensions and Nigeria's colonial past," the motivation of the Igbo to secede arose from "the presence of oil" in the Eastern region "and hence the belief that independence would be economically beneficial to the Igbo people." Oil was implicated in the civil war in different ways. First, the creation of the twelve states also split the Eastern region, which was then Nigeria's main oil-producing region, into three states in which the majority Igbo ethnic group was cut off from the sea and oil fields and refineries. As a result of the planned territorial reorganization, these were located within the minority ethnic groups' territory of what is now the Niger Delta,[53] especially Rivers state (Smith 1981). Although this deft political move that created states for the minority ethnic groups in the Eastern region undermined the support of these groups for the Igbo-led Biafra secessionist movement, and would have

[53] Today's Niger Delta also included part of the Midwestern Region of the First Republic, which accounted for 34.6 percent of total oil output. However, when the civil war erupted, 65.4 percent of the total volume of Nigeria's oil production of 404,000 bpd was produced in the Eastern region. The creation of states changed the geographical location of oil, with the East-Central state, which contained the majority Igbo group of the former Eastern region, left with 2.8 percent of total oil production while Rivers, one of the new states created from the former Eastern region, became the country's main producing state, with 57.1 percent of total oil production. 5.5 percent of oil production took place in the South-Eastern state, the third state that emerged from the former Eastern region. The Midwestern state still accounted for its previous share of 34.6 percent of oil production.

even been carried out as a pre-emptive move to stall the war in the first place, it unsurprisingly had the opposite effect. Smith (1981, 358) credits this development as the immediate trigger that "sparked off the secession of the Eastern region as the new republic of Biafra" as the political leadership of the Igbos, whose new homeland became the East-Central state with only one-sixth of the oil, felt that the territorial reorganization was "a deliberate attempt to sever the Ibo heartland from the oil and from the sea." It was, therefore, not an accident that Ojukwu, the governor of the Eastern region, declared Biafra an independent country on May 30, 1967, just three days after the promulgation of Decree No. 14 for the creation of states.

Another way in which oil was implicated in the civil war was through conflicting claims for control of the resource between the federal government and the Eastern regional government. As Scacco (2013, 345) noted, on one hand, "oil made it more likely that Biafra could be economically viable as a state independent from Nigeria, making secession a more attractive option for regional leaders" while on the other, "oil was already seen as a vital source of revenue for the central government, making Biafran secession unacceptable, and increasing the government's willingness to fight over the territory." The controversy over to whom amongst these conflict parties—the federal government or the Eastern regional government—Shell should pay royalties, with both parties issuing orders to the company to pay the royalties to them, reflected this tension during the war. Thus, for both sides, oil revenues were central to the war, and the control of oil installations was part of the play. It was, therefore, little wonder then that two of the most important steps taken by the Biafran government were the stoppage of Shell-BP's operation and the seizure of the company's oil installations in the Biafran territory for the company's failure to pay oil royalties of £3.510 million, and later an agreed token payment of £250,000 in lieu of the royalty, to the Biafran government (Uche 2008).

Oil also informed international response to the civil war and, by implication, its escalation. As Uche (2008) noted, the British attempt to protect investment of Shell-BP, which, at the time of the onset of the civil war, produced about 84 percent of total crude oil in Nigeria largely from the Eastern region which seceded from the country, and the need to preserve steady supply of oil from Nigeria, which at that time was responsible for about 40 percent of British oil import, greatly shaped its response to the war, particularly in seeing to a quick end to the war. Believing that a united Nigeria better served its commercial and strategic interests than one fragmented into several countries, the British eventually, albeit surreptitiously, supported the federal government. The British need for the war to quickly come to an end so that oil supplies would resume immediately was heightened as the supply of oil from the Persian Gulf to Britain at this point was seriously disrupted as a result of the sudden closure of the Suez Canal (Uche 2008) by Egypt in 1967. This closure lasted until 1975, long after the Six Day War which it was closed to protest had ended (Feyrer 2009). However, while the British government and Shell-BP eventually supported the federal government of Nigeria, SAFRAP, the French-owned company that

operated, unlike other oil companies, directly in the core Igbo-dominated area of Biafran territory, had no other option than to support Biafra, even though the juicy prospect of taking over the concession and assets of Shell-BP in the event of victory by the Biafran government was another key motivation for SAFRAP's support of the Biafran side with payment of oil royalties to the Biafran government (Uche 2008). Juxtaposed against the British government's and Shell-BP's support for the Nigerian government, SAFRAP and the French government's own support of Biafra by providing mercenaries and weapons (Griffin 2015) indicated the conflicting interests of foreign countries in the Nigerian civil war that, in a sense, affected the dynamics of the war.

5.6.4. From Reliance on Agricultural Commodities to Oil Dependency: 1970-80s Oil Price Crises and Boom, the Nigerian Military, and Changes to the Nigerian Political Economy

Oil has not always played a dominant role in the Nigerian economy. Nigeria had traditionally been dependent on agricultural commodities such as palm oil, groundnuts, cocoa, and to some extent, a few minerals such as coal, columbite, and tin. For instance, coal had been discovered in 1911 in the eastern part of the country, with coal mining beginning in 1915 (Tignor 1998). Coal was used to power the railways which, until 1930, was the "largest unit of government bureaucracy" in Nigeria (Tignor 1998, 199). Also, "in the late 1950s, the volume of coal and oil production was similar," with the only difference being that the former was utilized for domestic purposes while the latter was largely exported (Frynas 2000, 9). All this began to change after the end of the civil war in 1970 and changed even more rapidly following the 1973-74 OPEC-induced crisis, which ushered in massive revenues accruing from oil and changed attitudes towards the development of the non-oil sectors on which Nigeria had depended before the oil boom.

Nigeria joined the Organization of Petroleum Exporting Countries (OPEC) in 1971, formalizing its informal relationship with the organization that first began when it attended the 6th OPEC Conference in 1964 as an observer (Khan 1994; Skeet 1988). The Nigerian National Oil Company (NNOC) was established in 1971 in response to calls by OPEC for member countries to establish state-owned companies to serve as the medium for their increased participation in and control of the oil industry; it was replaced by the NNPC in 1977 (Nigerian National Petroleum Company 2010b).

Beginning in 1971, when the Nigerian government acquired 33.5 percent shares in Agip and 35 percent shares in Elf (Omorogbe 1987),[54] the government progressively staked new claims in the other IOCs and increased these participation shares, initially exploiting the increasing bargaining power of oil-producing

[54] It is believed by some scholars that the equity stakes acquired by the Nigerian government in SAFRAP (later known as ELF) were a retaliation against the company for its perceived support of the Biafra secessionists during the civil war (Okonta 2013). However, this claim does not seem plausible when we consider that the Nigerian government also acquired shares in another company.

countries vis-à-vis the IOCs arising from the forecast of a gap in demand and supply of oil before the energy crisis of 1973 (Parra 2004) and, later, the actual energy crises. In 1971, the first participation agreement was initiated between the government and the two IOCs; four more agreements, individually negotiated between each IOC and the Nigerian government, were reached in 1973, 1974, 1975, and 1979 (two agreements). These agreements transformed the oil industry from one in which the IOCs have concessions and the Nigerian government participates merely by owning equities or shares in the oil companies, to the current situation in which the government participates directly, through the NNPC as the majority shareholder of the JV arrangements, controlling between 55 and 60 percent of assets (Gillies 2009, 2)[55] in the JV with the six IOCs, who collectively account for over 80 percent of operations in the Nigerian oil industry.

Thus, besides opening up the industry for competition through the participation of other oil companies apart from Shell-BP, the Nigerian government also sought to participate in the oil industry, which originally was controlled by the oil companies. The government seized upon its increased bargaining power as its oil production got underway amidst talk of potential scarcity of the product, as a member of OPEC and the oil price hike as a result of the world oil crisis of 1973-74 to renegotiate its relationship with the IOCs, transforming the earlier system in which these IOCs were given concessionary rights into one centered on JV arrangements in which the federal government (through the NNOC and later NNPC) became a partner and majority shareholder.

Another remarkable development in the federal government's assertive role in the oil industry was a reform of the previous fiscal regime system, under which the government only collects mining rents royalties from the oil companies, to one in which the government was also entitled to a "share of profits from crude oil sales" (Ekwueme 2002). To be sure, a Petroleum Profits Tax (PPT) was instituted during the terminal period of colonial rule under the 1959 Petroleum Profits Tax Ordinance. However, it was believed to be characterized by far more generous concessions to the IOCs to the disadvantage of

[55] As noted earlier, the government's participation stake in all the major IOCs is 60 percent, except Shell, where it has 55 percent. Shell-BP's participation has also experienced a whirlwind with the nationalization of BP assets in Nigeria in 1979 in retaliation for the company's violation of an embargo imposed on the company for violating trade embargo imposed on South Africa when a BP-chartered tanker with links to South Africa unloaded in Bonny in what the Nigerian authorities described as ""a clever ruse for sending Nigerian oil to enemies of Africans in South Africa" (*New York Times* 1979). The nationalization, for which $125 million was paid to BP, led to a change of name of the company to Shell Petroleum Development Company of Nigeria (SPDC) and an increase in the NNPC's shares in the company from 60 percent to 80 percent, with the remaining 20 percent of the shares left for Shell in the joint venture. In 1989, the NNPC's shares was reduced to 60 percent, with Shell having 30 percent and two other partners, Elf and Agip, sharing 5 percent equity each. In 1993, the participation agreement was altered again, this time to its current configuration in which the NNPC has 55 percent, Shell 30 percent, and Elf and Agip have 10 percent and 5 percent, respectively (Human Rights Watch 1999; Nigerian National Petroleum Corporation 2010a; Okonta 2013).

Nigeria, even though, as Schätzl (1969) noted, the terms of the PPT Ordinance were expedient at the time the ordinance was enacted, when the oil industry was in its infancy and required incentives to stimulate investments by the oil companies. To begin with, the PPT Ordinance of 1959 "instituted the standard fifty/fifty arrangement whereby the government and the petroleum company in question shared that company's profit equally" (Pearson 1970, 23). Under this original PPT arrangement, included in the "chargeable profit" of which "half was paid to the government…were the royalties, rentals, and other minor taxes paid, for which no service was performed," with all of these payment components "used as offsets against profits tax" (Pearson 1970, 23). In other words, royalties and rentals and other taxes, general charges and duties were included in the government's share of profits (Schätzl 1969). Changes to the PPT initiated by the military through Decree No. 65 (the Income Tax [Amendment] Decree) of 1966 reduced by half the allowable rate for oil companies to "depreciate their capitalized investment" (Pearson 1970, 24), thereby increasing the chargeable profits, and hence the stream of profits taxes, which increased in favour of Nigeria. With another more fundamental amendment to the 1959 PPT Ordinance contained in Decree No. 1 (the Petroleum Profits Tax Amendment Decree) of 1967, the Nigerian federal military government imposed OPEC terms on oil companies in Nigeria and exacted commitment for fair prices on exported petroleum products from these companies through their agreement to set a posted price that requires all companies to implement the best posted price set by one company in any African country. Even though Nigeria was not yet a member of OPEC at this point, Nigeria was able to get this concession because it bound the oil companies through a "most-favoured company clause in each of the company covenants with the Nigerian government stating that no one company will receive better treatment than any of the others" (Pearson 1970, 25) or that Nigeria will receive equal terms if "the shareholders of an oil company operating in Nigeria or any company which they directly or indirectly control concludes a contract or recognizes a law in any African state under which the other country's share in profits is higher than Nigeria's" (Schätzl 1969, 95). A corollary reform instituted by Decree No. 1 of 1967 was the stoppage of the previous system whereby oil "companies could use royalties paid to government as 100 percent offsets against their PPT liabilities" (Pierson 1970, 25). Under this arrangement, royalties were treated as expenses rather than tax offsets, with the implication that the government was entitled to an additional 50 percent of profit taxes in addition to the royalties (Pierson 1970). These changes led to decisive increases in government revenues from oil (Schätzl 1971).

The federal government also intervened to prevent the large regional differences in fuel prices in the country, which reflected the different prices that oil markers incur for transporting oil to different locations, some of which, especially states in the north, are farther away from the Lagos seaport than others. Accordingly, "an argument for a standard fuel price is that energy consumers in the north should not suffer from their geographical disadvantage" (Schätzl 1971, 601). The federal government instituted a policy to encourage marketers to sell oil at uniform pump prices nationwide, and created the

Petroleum Equalization Fund (PEF) to administer this policy by "reimbursing petroleum marketing companies for any losses suffered by them, solely and exclusive, as a result of sale of petroleum products at uniform prices throughout the nation" (Petroleum Equalization Fund, n.d.).[56]

The oil boom that came after the end of the civil war in 1970 brought in desperately-needed money for post-civil-war restructuring, and the fact that this period coincided with military rule made changes easier, as the federal military government operated largely without constraints from the state governments. The end of the civil war, and more importantly the oil boom, not only led to a significant increase in the volume of crude oil production, but also the increase in oil prices that accrued to the country during the 1973-74 oil crisis. The contribution of the oil sector to Nigeria's foreign exchange income increased from 8.5 per cent in 1964 to 86 per cent in 1974 (Madujibeya 1976, 290). As Michael Watts noted, the transformation of Nigerian society wrought by the OPEC-induced oil price shock was enormous. Between 1970 and 1983, the Nigerian state earned $140 billion from oil. There was an almost 40-percent yearly growth in government revenues during the booms of the 1970s, and the enormous revenues propelled massive state investment in the economy and some forms of industrialization, which translated into almost tripling of the national manufacturing index between 1972 and 1980 (1992, 27). In addition, the percentage of oil revenues—royalties, profit tax, domestic crude sales and others—rose from 26 percent of federally collected revenues in 1970 to 81 percent in 1980 (Iledare and Suberu 2012, 229).

[56] It should be noted that the twin problems of "limited local refining capacity and inadequate distribution facilities" which necessitated the uniform pump price policy have not been solved, but have even been exacerbated over time, as Nigeria chronically depends on importation of refined oil for domestic consumption.

Table 6: Federal Government Oil Revenues (Petroleum Profits Tax, Rents and Royalties) and Total Current Revenues, 1970-1984

Year	Oil Rev. as % of Total
1970	26.3
1971	43.6
1972	54.4
1973	59.9
1974	82.1
1975	77.5
1976	79.3
1977	75.6
1978	62.3
1979	81.4
1980	81.1
1981	70.3
1982	66.4
1983	69.0
1984	70.0

Source: Central Bank of Nigeria and Federal Office of Statistics. Reprinted from Misau (1989).

Generally, therefore, the oil boom period witnessed assertive federal intervention in regulating oil and enabling the execution of ambitious plans for national development. Oil windfalls that largely accrued to the federal government as a result of its exclusive receipt of the PPT increasingly became the most lucrative source of revenues in the country, but also led to the increasing encroachment of the federal government into legislative areas over which the states previously had exclusive jurisdiction. This includes takeover of state-owned universities, standardization of income tax levels throughout the country through the operation of a national joint tax board, abolition of regional/state courts of appeal, and unification of public service cadres, salaries, and allowances throughout the federation (Ekwueme 2002). The long period of military rule (the first series of military governments lasted almost fourteen years), during which there were no national or regional/state legislative houses and the governors/administrators of the states were appointees/representatives of the military heads of state at the national level, facilitated the centralization and standardization of government, resulting in the erosion of regional or state autonomy.

Oil wealth made the grand vision of nation building possible, even though the practical realization of this vision has been daunting, if not insurmountable. A major problem was that the economic basis that drove this vision was, and has been, a fragile one, dependent as it were on a monolithic resource base that is subject to the vagaries of international world oil prices. Given the 'roller coaster' character of an oil-dependent economy such as that of Nigeria, the economy collapsed with the end of the oil boom (Watts 1992, 27), with oil exports falling to 708,000 bpd in 1981 from a high of 2.2 million bpd (Onoh 1983, 91). The oil price boom and bust also saw a dramatic variation in Nigeria's oil revenue: while revenues from oil exports grew from $718 million in 1970 to $25 billion in 1978, they declined, with the collapse of oil prices, to $4.7 billion in 1986 (Iledare & Suberu 2012, 229).

Speaking on the policy choices during the boom that made adjustment to the bust period difficult, Brian Pinto outlined how, rather than save windfalls that accrued to the country during the oil boom or "spread the increased consumption over time" (1987, 420), the Nigerian military government discountenanced the future by embarking on unsustainable public spending while neglecting the agricultural sector, which was the major source of revenue outside of the oil industry and the major source of employment compared to oil sectors limited employment opportunities. The offshoot of this was the emergence of the Dutch disease in the economy, marked by a decline in agriculture, "rising inflation, strict rationing of foreign exchange" (Pinto 1987, 419) following the collapse of oil prices in 1982 and rising external debt, which reached $18 billion, or 160 percent of exports, by 1984 (Lewis 2007, 161). In addition, oil windfalls provided opportunities for massive state intervention in the economy for the purpose of "appeasing ethnicity" (Auty 2008, 1) and increasing redistribution. A good example of this, as noted by Peter Lewis, was the "proliferation of public enterprises" driven not by economic efficiency, but by the need to expand rents and patronage "as part of an expanding domain of state-supported entitlements that bolstered the political reach of military elites and their civilian allies" (2007, 143). For instance, where the number of state enterprises stood at 250 before the boom in 1970, it increased to over 800 a decade later (Lewis 2007, 142).

5.7. Treatment of Oil Revenue in Context of Intergovernmental Fiscal Relations: Background, Practices, and Conflict

While ownership/control rights were vested in the federal government, including the rights to collect oil revenues from the companies, there was a relatively decentralized authority pattern regarding the treatment of the federally collected revenues. This institutional design, and its changing form, has generated at least three conflict issues for intergovernmental fiscal relations. Broadly speaking, there are four contending issues in the management of oil revenues: horizontal revenue sharing, particularly that between oil-producing and non-oil-producing states, allocation of revenue between federal and state governments, the management of the Federation Account, and treatment of excess oil revenues.

The 1999 Constitution provided for the sharing of oil revenues based on a formula designed by the Revenue Mobilization Allocation and Fiscal Commission (RMAFC), but with the approval of the National Assembly. The constitution provided that all revenues (including oil revenues), apart from income tax of military men, residents of the federal capital territory (FCT) Abuja, and expatriates should be deposited in a fund known as the Federation Account (FA), from which money should be shared between the states, local governments, and the federal government, and between states and local governments themselves based on the formula designed by the RMAFC. Section 62(2) of the 1999 Constitution empowered the president to submit proposals for revenue allocation from the FA to the National Assembly upon receipt of this proposal from the RMAFC. The 1999 Constitution further provided that the National Assembly, in determining the formula for revenue allocation as tabled before it by the president, should be guided by certain principles, "especially those of population, equality of States, internal revenue generation, land mass, terrain as well as population density" (Federal Republic of Nigeria 1999). However, there was a proviso that in taking account of these principles, the National Assembly must ensure that the "principle of derivation shall be constantly reflected in any approved formula as being not less than thirteen percent of the revenues accruing to the Federation Account directly from any natural resources" (Federal Republic of Nigeria 2000, 66). The treatment of derivation, which tends to generate horizontal conflict between oil-producing and non-oil-producing states, and the vertical dimension of revenue sharing and the corresponding conflict between federal and state governments, has changed over the years. What is the nature of this change, and how do the adjustments shape intergovernmental conflict? An account of the historical evolution of Nigeria's federal finance and the place of the derivation principle in this financial structure is important in properly grasping the nature of the problem.

Generally, Nigeria's fiscal federalism, especially its assignment of revenue (tax) powers, and the place of oil in this arrangement, has gone hand in hand with the country's political, sociocultural, economic, and constitutional developments (Ekpo and Ndebbio 1996; Ekpo 2007). Since its creation with the amalgamation of the Northern and Southern protectorates in 1914, Nigeria was administered as a unitary state until 1946. The Arthur Richards Constitution – named after Sir Arthur Richards, who assumed the position of Governor General in 1943 – came into operation in 1946, and this year is often considered the beginning of intergovernmental fiscal relations in Nigeria (Adedeji 1969). This was because the Constitution gave formal recognition to the three regions created in 1939: the Northern, Western, and Eastern regions. The legal recognition of these regions was an important milestone in the incremental progress of the hitherto unitary Nigerian state towards federalism. Prior to this period, the two provinces from which those three regions were created had been administered as separate entities, with little or no interaction between them (Adedeji 1969; Elaigwu 1986). The Richards Constitution not only created "a Legislative Council for the entire country" but also "established three regional legislatures" which

acted as an advisory body to the regional governor (Nze and King 2005, 229). The formal recognition of the regions in the 1946 Constitution created the challenge of determining the best way to formalize the fiscal relations between the central and regional governments (Ekpo 2007).

The Phillipson Commission of 1946, described by Adedeji (1969, 49) as marking the beginning of "federal finance in Nigeria," was tasked to "make recommendations regarding the problems of the administrative and financial procedure to be adopted under the new constitution" (Colonial Office 1946, 1). Specifically, the one-man commission was asked to determine the "declared revenues" of the regions; that is, the regional sources of revenues or revenues "derivable from within the region," and "non-declared revenues" which consisted of "block grants from central revenue" (Adedeji 1969, 50; Ekpo 2007).

In response to the first challenge, the Phillipson Commission categorized "revenues...identifiable within the region and locally collected by regional authorities" or "revenues in respect of which no national or important consideration of policy are likely to arise" as declared revenues (Adedeji 1969, 50). Declared revenues that could be categorized as specifically belonging to the regions include revenues from direct taxes that had, prior to the creation of the regions, been collected by local authorities, as well as "receipts from licenses, mining rents, fees of courts and offices, rent from government property, and earning from government departments" (Adedeji 1969, 50-51). With regard to non-declared revenues, the Commission decided that grants from the central government's budget surplus to the regions (that is, grants available for regional allocation after the central government has met its own budgetary needs) should be based on the derivation principle,[57] which requires that the central government's block grants to the three regions should be in "strict proportion" to the revenue contribution from economic activities in each region to the revenue of Nigeria as a whole (Adedeji 1969, 53). The Commission further recommended that grants to the regions should be based on the following percentage: the Northern region should receive 46 percent, the Western region 30 percent, and the Eastern region 24 percent. The Commission argued that basing the central government's grant allocation model on derivation would train the regions to cut "their coat according to their cloth" (Adedeji 1996, 53) or encourage them to become financially responsible, even though it recognized that solely basing transfers to the regions on derivation would make poor regions poorer and perpetually dependent. The Commission considered its attempt to balance the principle of derivation with that of 'even progress,' intended to better preserve the unity of the country, impractical, given the absence of reliable data on the state of development in

[57] Though the Commission recommended the use of two other principles, even progress and population, the absence of the statistical basis for these principles led to the use of only the derivation principle. This also posed serious challenges to the calculation of regional contributions to the central purse, as there were discrepancies between the regions' claims and the federal government's receipts (Misau 1989).

the regions as well as its insistence that the derivation would promote financial responsibility, a precondition for regional government (Adedeji 1969, 53).

A major legacy of the Phillipson Commission was its emphasis on the principle of derivation in allocating the central government's surplus money to the regions, with this leading to misunderstanding between the regions (Adedeji 1969; Phillips 1971). Because Nigeria was under a unitary government during this period, horizontal conflict between the regions regarding their share of federal grants was a thorny issue in the country's intergovernmental fiscal relations, as the regions could not make a political issue of the fact that the central government retained a yearly average of seventy-five percent of the non-declared revenues, leaving about thirty percent for allocation to the three regions (Adedeji 1969, 60). Thus, to the extent that the unitary system shielded the central government's handling of non-declared revenues from being contested by the regions, the main "attention and interest during this period was accordingly on interregional rather than on central-regional fiscal equity," with the emphasis on "regional allocation of non-declared revenues" (Adedeji 1969, 60) and how the implementation of the derivation principle applies to this allocation. Thus, as expected, the Phillipson Commission sparked disaffection in some regions on the perception that those regions were being treated unfairly in the application of the derivation principle. This fact, and the need to review the fiscal system to align it with the more decentralist constitution that was expected in 1951, led to the appointment of a new commission, known as the Hicks-Phillipson Commission, in June 1950.

Reflecting its view that a robust system of revenue allocation must meet the criteria of justice, liberty, fraternity, and efficiency, the Hicks-Phillipson Commission recommended a revenue system based on the principles it believed would lead, correspondingly, to the realization of the aforementioned criteria or goals: principles of independent revenue, derivation, need, and national interest (Adedeji 1969, 73). The principle of independent revenue corresponded with the Phillipson Commission's declared revenues, which it defined as revenues considered or easily identified to be regional in nature, and applied the other three principles—derivation, need, and national interest—to the allocation of non-declared revenues (Ekpo and Ndebbio 1996). Unlike the Phillipson Commission's formula, the Hicks-Phillipson Commission's model held that the federal government would merely appropriate nationally collected revenues (a yearly average of seventy-five percent) before sharing the surplus with the regions, and, reflecting the increased legislative and executive powers of the regions, the allocation of non-declared revenues was made statutory, with both central and regional governments equally receiving these, and with the fifty-percent regional portion of the centrally-collected revenue distribution allocated according to the principle of derivation (Ojo 2010, 20-21). However, where the Phillipson Commission provided that surplus from all non-declared revenues would be returned to the regions based on derivation, the Hicks-Phillipson Commission applied derivation only to tobacco taxes, as these were the only taxes, in the opinion of the commission, that "can be so allocated with simplicity and certainty"

(Adedeji 1969, 76). The selective use of the derivation principle, or its confinement to only half of the revenues from tobacco taxes, was a point of contention in the western region, who believed that the full application of this principle to tobacco taxes would have favored it, given its status as the most developed region (Adedeji 1969, 77). While the Commission was aware of this fact in making its recommendation, it maintained that applying derivation to all the proceeds of tobacco taxes, as the Western region wanted, would upset regional balance (Adedeji 1969, 77).

The Louis-Chick Commission coincided with the creation of Nigeria as a federation in 1954. This commission had significant decentralist traits, emphasizing regional autonomy. The hallmark of its decentralist nature was the assignment of 100-percent weight to derivation for the allocation of revenues from mineral resources, which means that all mineral rents and royalties were returned to their region of origin.

It should be pointed out that the three fiscal systems discussed above were developed prior to the discovery of oil in Nigeria, even though mining of minerals, considered under the broad category of natural resources, was occurring during this period although its contribution to the total revenue was negligible (Adedeji 1969). During this time, some commissions, such as the Louis-Chick Commission, gave 100-percent weight to derivation. With the discovery of oil in 1956, another commission—the Raisman Commission—was set up in 1958 to examine the country's revenue system. In its recommendations, the Raisman Commission demonstrated its awareness of the potential distortions of regional development and national unity that oil could create in the revenue system when it becomes a major source of revenue, and was determined to modify the existing formula to forestall such negative consequences. The Commission reduced the percentage of mining (oil) rents and royalties accruing to the region based on derivation by half, specifically, 50 percent instead of the previous allocation of 100 percent under the Louis-Chick Commission's formula. The federal government was to retain 20 percent of the remaining 50 percent of mining rents and royalties, while a central pool known as Distributable Pool Account (DPA) was created, into which 30 percent of mining rents and royalties were kept and shared between regions. The 30 percent of mining rents and royalties in DPA was distributed according to the following model: 40 percent for the North; 31 percent for the West; 24 percent for the East; and 5 percent for Southern Cameroons, which was then part of Nigeria (Colonial Office 1958). This model was determined according to the principles of continuity of government service, minimum responsibilities, population and balanced development (Colonial Office 1958).

The recommendations of the Raisman Commission, part of which was incorporated in the 1960 and 1963 Constitutions, was in use until the Binns' Commission of 1964 was set up to review the revenue formula. This review was largely necessitated by the creation of the Midwest region from the Western region in 1963 and the earnings from the increasing sales of oil (Misau 1989). The Binns' Commission recommended

either the retention of 30 percent mining rents and royalties in the DPA in addition to the payment of a block annual grant (and later in addition to shares of excise revenues) to the regions; or, if the option of the block grant was not acceptable to the federal government, an increase in the percent of mining rents and royalties (and revenues from import duties) to be deposited to the DPA to be shared among the four regions from 30 percent to 35 percent. The latter option, which meant a 5-percent reduction of the share of these revenues (mining rents and import duties) to be retained by the federal governments from 20 to 15 percent, was the one that was chosen. Accordingly, the 35 percent funds in the DPA was distributed for the regions on the following basis: the Northern region received 42 percent, the Western region 20 percent, the Eastern region 30 percent, and the Midwestern 8 percent (Dina 1971; Suberu 2001). As with the previous formulas, the Binns' Commission's recommendation was not favorable to all the regions. Specifically, the Eastern region, which, during the Raisman Commission's review, had canvassed for the use of subregional need rather than derivation alone as the criterion for distribution, criticized the Binns' Commission's recommendation, describing it as "extremely unreasonable, unfair and inequitable," urging that all mineral rents and royalties (instead of the extant practice of 50 percent, which the Binns' Commission did not alter) should be returned to the region of origin based on derivation (Rothchild and Curry 1978, 128-129). This change of attitude by the Eastern region was not surprising, as the use of 100- percent derivation would have favored it, given that oil whose value and revenue has started to increase at this point was then produced from the east (Rothchild and Curry 1978).

A critical juncture was to affect the revenue allocation system, with the military coups of 1966. The report of the Binns' Commission, submitted in 1965, was made effective from 1 April 1966 (Rupley 1981, 261). However, the implementation of this report was interrupted by the civil war that lasted from 1967 to 1970. Following the creation of states in 1967 just before the outbreak of the civil war, the federal military government decreed a new revenue formula, which slightly modified the existing one by reducing the percentage of the federal government's share in the vertical formulae from 20 to 15 percent in order to free more money to be shared by the newly-created states. This was important because, even though the military created 12 states from the previous 4 regions, revenues that would provide for the budgetary needs of the new states remained unchanged from the previous model of four regions. An ad-hoc revenue arrangement was designed in Decree No. 15 (the Constitutional [Financial Provisions] Decree) of 1967 for the sharing of the 35 percent of revenues in the DPA to be horizontally shared among the 12 states, the share of each region from the DPA distributed among the new states created from it. This means that the 6 states created from the Northern region were allocated 42 percent of funds in the DPA for sharing at 7.0 percent each, the three states created from the Eastern region shared the region's 30 percent share of the DPA, two states from the Western region shared that region's 20 percent share from the DPA, and the Midwestern region, which did not have any states created from it, retained its 8-percent share of revenues from the DPA (Oyovbaire 1978; Rupley 1981).

Curiously, however, while the share of revenues that went to the northern states was based on equality of states, those that went to the Western and Eastern states were based on population. This use of different principles for distributing state revenues from the DPA was criticized by states in the north as inequitable and unjust, particularly given that the same amount of revenues went to the 6 northern states, even though the populations of these states were significantly unequal (Oyovbaire 1978).

The Dina Committee was inaugurated in 1968 to rectify this anomaly, and in its 1969 report, the committee recommended the creation of the State Joint Account (SJA) to replace the DPA, as well as the use of five principles for the horizontal sharing of revenues from the SJA: equality of states, population, derivation, minimum responsibility of government, and tax effort. For onshore mining rents, the committee recommended that the federal government share remain at 15 percent as provided in the interim military decree, but drastically reduced the share of revenue assigned to derivation from 50 to 10 percent while increasing the amount of funds assigned to the DPA from 35 percent to 70 percent. 5 percent of mining rents was also allocated to be administered by the federal government as special grants. For offshore mining rents, the committee recommended a reduction in the percentage of revenues to be returned to states based on the principle of derivation from 50 percent to 30 percent. In turn, the federal government's share of offshore revenues was increased to 60 percent. The Committee's report was criticized by state governments for going out of its way to discuss politics of federalism generally rather than concentrating on revenue allocation (Rupley 1981). In addition, the politicians working under the military rule, who hoped to participate in state-level politics when civilian rule was restored, did not support a revenue formula that would reduce the states' share of revenues (Ikein and Briggs-Anigboh 1998).

However, although the Dina Committee's report was rejected by the state governments and the federal government did not officially publish it, some of its provisions were subsequently adopted by the federal government (Elaigwu 1986). The successive reforms of the Gowon administration began an incremental reduction in the weight attached to the derivation principle. During the First Republic (1960-1966), the revenue system allocated 50 percent of oil revenues based on derivation, and 20 percent to the federal government, with 30 percent assigned to the DPA to be shared by the three, later four, regions. This arrangement was jettisoned after the civil war through Decree No. 13 of 1970 (in force from 1970 to 1974), which increased the revenue powers of the federal government relative to the states, as mining rents and royalties that were returned to the states were reduced from 50 percent to 45 percent and the federal government began to share with the states by fifty/fifty revenues from excise duties on tobacco and petroleum products and import duties on motor fuel, which previously went in full to the states based on derivation (Suberu 2001).

As oil production continued, and with revenues increasing as a result of the oil boom of 1973-74, most of the states (except the oil-producing ones) became concerned with the interregional disparity and economic inequality that the sharing of oil rents and royalties through derivation brought to the revenues system, even though at this time the 45-percent weight attached to derivation was restricted to onshore oil, because in 1971, the federal government had reserved all revenues from offshore oil for itself. The Federal Statutory Allocation to the 12 states during the 1974-75 fiscal year underscored the pattern of imbalance that the use of the derivation principle generated during the 1970s. While 241 million naira, or 40.83 percent of the total allocation to states, was allocated to the oil-producing states of Rivers and Midwestern, comprising 4 million or 7.3 percent of the country's population, the ten other states, with a combined population of 51.6 million or 92.7 percent, shared 349.2 million naira or 59.17 percent of the statutory allocation (Elaigwu 1986, 178). Suberu (2001, 64) noted that the derivation-induced "egregious asymmetry in the financial fortunes of the states served to galvanize opposition to the derivation principle and nudge the central government into downgrading the principle in favor of revenue-sharing strategy that increased the amount of resources available for distribution among all the states." It would appear that as the political and financial implications of oil production experienced rapid changes between 1970 and 1975, the states began to experience the wide disparity that Dina Committee wanted to forestall in recommending a downgrade of the derivation principle, and hence, "the Dina Committee recommendations now found more favor with the State Governments than they had when first made in April 1969" (Rupley 1981, 265).

The military government's response to the outcries from the non-oil-producing states over the effect of the derivation principle on revenue allocation as a whole led to the announcement of another revenue formula in October 1974, which came into effect in April 1975. Under the new formula, more funds were allotted to the DPA in order to make enough funds available for distribution to the states (Elaigwu 1986). Correspondingly, this meant a de-emphasis on the derivation principle, as most of the revenues that were diverted to the DPA were formerly allocated to states based on derivation (either in full or by half); the notable exceptions were the federal government's shares of onshore and offshore rents and royalties, which it also allotted to the DPA under the 1975 modification to the formula (Elaigwu 1986; Gowon 1974). Significantly, the derivation weight attached to mining rents and royalties was reduced from 45 percent of onshore oil to 20 percent (Elaigwu 1986). With the 1975 revenue formula, the only item that was allocated to states on the basis of derivation was 20 percent of onshore rents and royalties, as the derivation formula practically became eclipsed by the principles of equality of states and population. Under these reforms, oil and other revenues that had previously gone to the states based largely on derivation which previously went to the states (except 20 percent of onshore oil rents and royalties), and even the federal government's own share of onshore and offshore oil rents and royalties, were now deposited in the DPA for horizontal sharing, based on the principles of equality and population. The reforms, as well as the fact that these changes took place at a time of exponential rise in revenues

as a result of the oil boom, led to significant increases in statutory grants to states (Rupley 1981). However, Ikein and Briggs-Anigboh (1994, 139-140) made the important point that while the 1975 revenue formula "had the effect of increasing the amount of statutory revenue to the state governments...their proportion of federal revenues actually declined" in part due to the federal government's withholding the petroleum PPT, the most lucrative revenue source, comprising 80 percent of oil revenues and about 60 percent of federal revenues during the oil boom period, for its own use. The federal government was able to accumulate a surplus as a result of the PPT, and it was able to give discretionary grants to the states, who did not benefit as did the federal government from the oil boom, even though, given the non-statutory nature of these grants, the federal government was under no obligation to provide these grants. The important point to note with regard to the reform of the revenue system during this period was that the need to adjust the revenue allocation to counteract the horizontal fiscal imbalance created (in favor of Rivers and Midwestern states, at the time the major oil-producing states) led to complaints by the other states and the whittling down of derivation (Elaigwu 1986; Rupley 1981). However, this adjustment created a paradoxical situation in which, despite the temporary relief to states in terms of increasing funds during the oil boom period, it eventually instituted an egregious pattern of what has been described as "transfer dependence" (Asadurian, Nnadozie, and Watchekon 2006). This meant that federally collected revenues came to dominate state expenditure more than before, accounting for approximately 81 percent of states' expenditure by 1975-76, as compared to the period between 1953 and 66, when federal transfers and the regions' own internally sourced revenues were almost at par (Human Rights Watch 1999).

The Aboyade Technical Committee of 1977 was inaugurated to prepare a revenue formula for the civilian administration that would emerge in 1979 following the military's transition to a democratic program, as well as to recommend revenues to the 7 newly-created states in 1976, and to the local governments, which the military officially made the third tier of government. Besides the elimination of the derivation principle, a major recommendation of the Committee was the creation of a Federation Account to replace the DPA, into which all federally-collected revenues except the personal income tax of the armed forces, external affairs officers, and federal capital territory, would be kept and shared among the three tiers of governments (Suberu 2004). The Committee had recommended 57 percent to the federal government, 30 percent for the states, 10 percent for the local governments, and 3 percent as special grant (itself a de facto fund for the federal government), but in the White Paper issued by the military government on the Committee's report, the 3-percent share for the special grant was added to the federal government's share, thus bringing the total to 60 percent. The recommended shares for the state and local government were not changed by the military (Rupley 1981; Suberu 2001).

Although the military government had implemented the Aboyade Committee's proposal during the last six months of military rule of this first military interregnum (Suberu 1996), its acceptance for application

during the civilian government inaugurated in 1979 ran into troubled political waters. The principles recommended for use by the Aboyade Technical Committee included equality of access to development opportunity, tax effort, fiscal efficiency, national minimum standards for national integration, and absorptive capacity. The Committee tried to remove politically-sensitive principles, such as population and equality of states, which had been used in the previous formulas, from its recommendations while introducing efficiency-driven ones, such as tax effort and fiscal efficiency, that would serve as incentives for internal revenue generation for the states (Sarumi 1982). However, the attempt of the military government to depoliticize the revenue sharing "as reflected in the reliance on economic criteria in the Technical Committee Report, was at odds with the Constituent Assembly's[58] perception that this was primarily a political issue" (Rupley 1981, 270). Although the Aboyade Committee's report was rejected, its recommendation on the establishment of the FA was accepted and incorporated into the 1979 Constitution (Misau 1989).

The civilian government of Shehu Shagari, which assumed power in 1979, therefore inaugurated the Presidential Commission on Revenue Allocation (or the Okigbo Commission) to decide on the revenue allocation formula. The Okigbo Commission recommendations were passed, with some modifications, as the 1981 Revenue Allocation Act. However, Bendel State legally challenged this Act and asked the court to declare it unconstitutional, null and void, ostensibly due to faulty legislative procedures in its enactment, though the real reason that Bendel and other oil-producing states opposed the Act was its failure to assign any weight to the principle of derivation, as had also been the case with the Aboyade Commission. Following legislative deadlock and Supreme Court's decision, the Okigbo Commission's report and its White Paper were eventually superseded by the Revenue Allocation Act of 1981, which allocated 55 percent to the federal government, 30.5 percent to the states, 10 percent to the local governments, and 4.5 percent to special fund administered by the federal government (Suberu 2001). The intervention of Shehu Shagari, who had benefited from votes from the Niger Delta, also helped to ensure the reintroduction of the derivation principle, with 2 percent of the states' share of revenues assigned to the principle of derivation and 1.5 percent assigned for use in ameliorating ecological problems in the oil-producing states (Suberu 1996, 23-25). The last change to the revenue allocation formula was in 1992, when the Babangida military regime modified the Shagari era revenue formula and slightly reduced the federal government's statutory share of allocation from the Federation Account

[58] The Constituent Assembly was a 230-member assembly that was inaugurated in 1977 to review the draft constitution prepared by the 50- (and later 49-) member expert Constitution Drafting Committee, which had been earlier appointed by the federal military government in 1975 to craft a new constitution for use with the return of civilian rule in 1979. The majority of the members of the CA were chosen from their localities on the basis of state and population distribution (Widner 2005).

according to the following model: the federal government received 48.5 percent, states 24 percent, local governments 20 percent, and a federal-government-controlled special fund 7.5 percent (Suberu 2004). This revenue formula continued to be used well into the democratic era beginning in 1999, and has not changed radically since its slight modification via an Executive Order following the 2002 Supreme Court judgment that declared the concept of a special fund illegal.

5.7.1 Horizontal Revenue Sharing and the Oil-Producing States

A persistent concern with regard to oil has been that even though the bulk of crude oil, Nigeria's main source of revenue, is derived from the Niger Delta, the Niger Delta communities "belong to the ranks of the most backward and marginalized groups in the country" (Osaghae 1995, 325). The Niger Delta, as Larry Diamond (2001, xv) aptly states, is a region "from which much has been taken but to which little has been returned, except its environmental disaster, economic destitution, and political repression." The poor economic and environmental situations in the Niger Delta have sparked agitations in the region for improved economic welfare through fiscal federalism and environmentally sustainable resource development. The high point of this conflict seems to be the hanging of the playwright and environmental activist Ken Saro-Wiwa and eight other activists who were demanding local autonomy and control of oil for the Ogoni, on November 10, 1995, by the Abacha military regime. This situation led to international condemnation and, consequently, the suspension of Nigeria from the Commonwealth. Indeed, political repression and the failure of successive governments to develop the Niger Delta have hastened the emergence of ethnic-based groups and other disparate armed groups throughout the Delta region. These groups have projected themselves as leading the political aims of self-determination, environmental justice, and the control of natural resources for the Niger Delta communities (Obi 2005; Suberu 2001) while at the same time engaging in criminal acts such as kidnapping for ransom (Oriola 2013) and "illegal bunkering" (Obi 2004); that is, theft of crude from oil pipelines.

At the centre of the agitation for fiscal federalism or 'resource control' championed by the Niger Delta is the desire of these oil-producing states for a greater transfer of resources to the region as the 'goose that lays the golden egg' as well as compensation for ecological degradation of the Delta lands and sources of their livelihoods. Whereas section 162 (2) of the 1999 Nigerian Constitution makes it mandatory that "not less than 13 percent of the revenues accruing to the Federation Account directly from any natural resources" should be returned to the states from which these revenues are derived, the oil-producing states have decried the present going rate of 13 percent as unjust, inequitable, and inadequate compensation for their developmental needs and the environmental degradation they suffer.

In criticizing the current arrangement in which a 13-percent weight is attached to derivation, the Niger Delta elites refer to the long-standing history of the derivation principle as presented above. Prior to independence, the principle was applied in full, when cash crops were produced in regions dominated

by Nigeria's three majority groups; in 1960, the weight of derivation was reduced to 50 percent, as recommended by the Raisman Commission. This arrangement continued under the First Republic and the first military interregnum, and in 1970, it was reduced to 45 percent. In 1975, the weight was reduced to 20 percent, and the reduced weight was redirected into the DPA to be shared among the states, in response to concerns that the derivation principle was causing financial disparities between the 10 non-oil-producing states and the two oil-producing states at the time (Elaigwu 1986). The Aboyade Committee and the Okigbo Commission virtually eliminated derivation, even though the latter recommended the earmark of 2 percent of revenues in the Federation Account for "the ecological rehabilitation of mineral producing areas" (Suberu 1996, 24). In the 1982 Revenue Act, the Shagari government provided the allocation of 2 percent from the Federation Account to derivation. The Buhari military regime reduced the derivation formula to 1.5 percent (Ibaba, Ukaga, and Ukiho 2012) and also applied derivation only to federally-collected mineral revenues, discarding the practice under Shagari, when it was applied to the totality of revenues in the Federation Account; this, in essence, meant a reduction in the proportion of revenues based on derivation (Suberu 1996, 30). In 1992, the Babangida regime reduced revenues allocated on the basis of derivation from 2 to 1 percent; after stringent agitations in the Delta, and perhaps also to appease the Niger Delta, which was still seething with anger over the killing of Ken Saro-Wiwa, the 1994-95 constitutional conference initiated by the Abacha military government recommended at least 13 percent as a derivation fund, and this was included in the 1999 Constitution. Section 162(2) of the Constitution provided that "the principles of derivation shall be constantly reflected in any approved formula as being not less than thirteen percent of the revenue accruing to the federation account directly from any natural resources."

Table 7: Incremental Changes to the Weight Attached to the Derivation Principle

Year	Derivation weight (%)
1954	100
1960	50
1970	45
1975	20
1982	2.0
1984	1.5
1992	1.0
1999	13

Source: Author's compilation

As may be expected, the incremental de-emphasis on the weight attached to the derivation principle "has fueled criticisms from ethnic minority elites in the oil-producing states who see the decline of derivation as just another expression of oppression and domination of minorities in the Nigerian federation" (Suberu 2001, 65). For instance, Obi and Rustad describe the issue as follows:

> Before the war, this principle had favoured the old regions based on their cash crop economies. But after the war (and the collapse of cash crop economies), the reversal of the principle implied that the same hegemonic ethnic groups retained control of the new source of national wealth, oil, even though their states no longer contributed the bulk of national wealth. Instead, the ethnic minorities whose states produced oil were alienated from the bulk of the oil wealth. (2011, 211)

However, to its critics, including the 19 states in the north, prominent scholars, and post-independence (Nigerian) fiscal commissions, the derivation principle should either be downgraded as a criterion for revenue allocation or discarded altogether. The 1969 critique by Nigerian academic and policy-maker Adebayo Adedeji, for example, illustrates the nature of the problems with, and the intensity of opposition to, the derivation principle:

> The derivation principle bedeviled the development of a rational and equitable system of revenue allocation in Nigeria. It has poisoned intergovernmental relationships and exacerbated interregional rivalry and conflict. Perhaps more than any other single factor it has hampered the development of a sense of national unity and common citizenship in Nigeria. Moreover, its application has been arbitrary and lacking in consistency: in some tax revenues it is applied in full, in others only partially, and in other not at all. (1969, 254)

A defining clash between supporters and opponents of increased derivation revenues to the Niger Delta emerged at the National Political Reforms Conference (NPRC) in 2005, when delegates from the Niger Delta states pressed for an upward review of the derivation formula from 13 percent to 25 percent in the interim, "with a graduated increase to 50 percent over a period of five years" (South South Delegates to the National Conference 2005) to mirror the derivation formula in the First Republic (1960-1966). However, this demand provoked opposition, especially from delegates from the north who argued that "to support a greater percentage allocation to derivation in a country whose governments depend on one commodity for most of its revenue would only lead to gross imbalance in the development of the various regions in the country with obvious implications for stability and security" (Danbatta 2005). Following the north's rejection of the demands of the oil-producing states, a select committee of conference delegates was chosen to proffer an amicable resolution, and consequently recommended an increase of 4 percent, bringing the weight of derivation to 17 percent, pending the establishment of a technical committee to work a more lasting solution (Danbatta 2005). The Niger Delta delegates were dissatisfied with this recommendation and staged a walkout that brought the conference to an abrupt adjournment, with the Niger Delta delegates failing to appear when the conference reconvened (Owete 2014).

5.7.2. Oil and Federal-State Conflict

There are two significant issues relating to vertical allocation of oil revenues in Nigeria: the dispute over the share of each government from the Federation Account, and the actual management of the Federation Account.

Regarding the first contentious issue of the vertical allocation of oil revenues, a major criticism of the current revenue formula is that states are made poor by the allocation of the significant percentage of revenues from the Federation Account to the federal government, and this prevents them from carrying out their functions of social and economic development. Ekpo and Englama (2008, 232) have said of this fiscal imbalance: "fiscal arrangement in Nigeria heavily concentrates on fiscal powers in federal government. Consequently, there is a lack of correspondence between the spending responsibilities and the tax powers/revenue resources assigned to the different levels of government. The federal government becomes the 'surplus unit' while state and local governments are 'deficit units.'" A historical background of the revenue formula currently in use is appropriate at this point in order to better understand the institutional and political dynamics that have sustained the revenue formula that is tilted in favour of the federal government.

The 1999 democratic era began with the use of the revenue formula promulgated by the military in Decree 106 of 1992. The revenue formula allocated 48.5 percent of revenues to the federal government,

24 percent to the states, and 24 percent to the local governments. It also made 7.5 percent allocations to Special Funds administered by the federal government. These include 1 percent for the Federal Capital Territory (FCT), 2 percent for the Ecological Fund, 1.5 percent for the Stabilization Fund, and 3 percent for Development of Natural Resources (Shuaib 2003). As the formula had been in place since 1992, it required changes in order to align it with the new realities created by the political and economic developments since then. For instance, the derivation principle of 1 percent weight in 1992 was allocated 13 percent in the 1999 constitution. The 1999 constitution also instituted a permanent body, the RMAFC, replacing the semi-permanent National Revenue Mobilization Allocation and Fiscal Commission of 1992. Working on its mandate to provide a revenue formula (renewable every five years), RMAFC submitted an initial proposal in 2001 to President Olusegun Obasanjo, which was later passed on to the National Assembly for its consideration (Shuaib 2003). The proposed revenue formula allocated 41.3 percent to the federal government, 31 percent to state governments, and 16 percent to the local governments. A special fund allocation of 11.7 percent was also proposed. As with the 1992 formula, the federal government had power to manage the special fund allocation, bringing the federal government's total share of revenues to 53 percent. The National Assembly could not legislate on the formula to give it constitutional backing before the Supreme Court verdict of April 2002, which voided the Special Fund in the existing 1992 formula, as well as the federal government's practice of making payments for its own assignments from the FA and its refusal to remit natural gas revenues in the FA.

Before the RMAFC could propose another formula to make necessary modifications based on the Supreme Court judgement regarding allocation from the FA to the Special Fund, the President issued an Executive Order in May 2002, modifying the formula in the federal government's favour by simply transferring the weight allocated to the Special Fund to the federal government's share of revenues (Ekpo and Englama 2008). This Executive Order, which invariably circumvented the Supreme Court's judgement regarding the Special Fund, brought the federal government's share of revenue to 56 percent, state governments 24 percent, and local governments 20 percent. In other words, there was no change to the existing formula, as the federal government merely merged the Special Fund it previously indirectly appropriated with its own direct share of allocation (Suberu 2004). Opposition by the states led to a modification of the president's first Executive Order in another Executive Order of June 2002, by which the federal government ceded 1.3 percent of its share of allocation to the other tiers. Under this formula, the federal government received 54.68 percent, the states 24.72 percent, and local governments 20.60 percent (Shuaib 2003). In January 2003, the state governments challenged the Executive Order in the Supreme Court, but the challenge failed, as the judges declared in *AG Abia State & Ors v. AG Federation* that the president has the power to issue out such Executive Order as an authoritative interim measure in order to bring the revenue allocation formula inherited from the military up to date in conformity with section 162 which provided for the allocation of revenues to the orders of government from the

Federation Account (Suberu 2017). Meanwhile, the RMAFC submitted another proposed revenue formula in December 2002, which the president submitted to the NASS for its consideration. In the RMAFC formula, the federal government's share of revenues was reduced in favour of that of the states as follows: federal government (46.63 percent), the states (33 percent), and local governments (20.37 percent) (Shuaib 2003).

In November 2003, while it was still at the National Assembly for consideration, President Obasanjo withdrew the Revenue Allocation Bill, claiming that several versions of the bill were in circulation and that there was a need to verify the bills in circulation. The president promised that "once the authentic bill is ascertained it will be returned" to the National Assembly (NASS) with his signature and that of the RMAFC Chairman (Obasanjo 2003). With the withdrawal of the bill, state governors' mobilization of the representatives of their states in the two federal chambers to get the proposed formula passed expeditiously was jeopardized. The president therefore frustrated the effort to amend the revenue formula through the NASS that would have led to significant decrease in the share of the federal government revenues.

The following month (December 2003), the president returned the withdrawn revenue formula to RMAFC with the objection that it failed to assign weight to the some of the federal government's constitutional responsibilities such as energy development, internal security, ongoing infrastructural projects, and military & police salaries/pensions (Tukur 2004). In response to the president's objection, the RMAFC called for memorandum with a view to review the formula. However, in February 2004, the 36 state governors collectively resolved that they would not support another review and that RMAFC should represent the earlier withdrawn formula, while the president responded by writing the Commission that same month, urging it to act on his earlier request for a review (RMAFC 2004). While the RMAFC was still working on a new revenue formula. In March 2004, Ngozi Okonjo-Iweala, the then Minister of Finance, issued another Executive Order modifying the existing revenue formula. The current revenue formula that emerged from Ministerial Executive Order distributes the revenues from the Federation Account with the federal government receiving 52.68 percent, the states 26.72 percent, and the local governments 20.60 percent, with the federal government's share having an inbuilt special funds allocation of 4.18 percent. In September 2004, RMAFC forwarded another revenue allocation proposal to the president with the following vertical sharing formula: federal government (53.69 percent), states (31.10 percent), and local governments (15.21 percent), with the federal government's share having an inbuilt special funds allocation of 6.5 percent, a strategy designed by the RMAFC to circumvent the 2002 Supreme Court's ruling which declared special funds illegal (RMAFC 2004; Shuaib 2006). This newest proposal from RMAFC was presented by the president to the National Assembly but was not passed into law. Thus, the formula modified by the Ministerial Executive Order of March 2004, which allocates 52.65

percent to the federal government, 26.72 percent to the states, and 20.60 percent to the local governments, was the subsisting formula in the country. This also means that since 1999, there have been no real periodic reviews of the revenue formula inherited from the military to allow it to adapt to changing circumstances.

The picture that emerges from all of this is the perpetuation of the status quo, characterized by a revenue formula slanted in favour of the federal government with a total share of over 50 percent. Thus, in contrast to the frequent and radical changes in revenue that characterized the period before the introduction of the Federation Account based on the recommendation of the Aboyade Committee's report and which was inculcated in the 1979 and 1999 Constitutions, the post Federation-Account period, especially the period following the return to democratic rule in 1999, has been relatively stable, with changes engendered by the Supreme Court ruling, which nullified some sections of the revenue formulae inherited from the previous regime that carried over for use with the return to democracy in 1999, and the executive orders in response to the Supreme Court ruling of 2002. However, amidst this stability are the intermittent demands of the state governors for an increase in the states' shares in the revenue formula.

The Nigerian experience shows the effect of time on institutional changes. The period following the return to democratic rule does not favour the kind of constant changes to revenue allocation formula witnessed in the previous era. The sustained democratic rule provided different veto points that led to deadlock, unlike the previous era that was dominated by military rule, in which only the federal government had institutional veto allowing it to change the revenue-sharing formula at will with little opposition from the state governors.

The second issue regarding the vertical allocation of revenues concerns the management of the Federation Account. As stated earlier, Section 162(1) of the 1999 Constitution provides for the establishment of a Federation Account, into which "shall be paid all revenues collected by the federal government" apart from proceeds from personal income tax of personnel of the Armed Forces of the Federation, the Nigerian Police Force, ministry responsible for conducting foreign affairs, and residents of the Federal Capital Territory (FCT) Abuja. Section 162(2) further provided that the revenues deposited in the Federation Account should be shared among the states, the local governments, and the federal governments, and between states and local governments themselves, based on the formula designed by the RMAFC. Thus, this constitutional provision, empowering all tiers of government to benefit from the Federation Account, has imposed veto powers other than the federal government regarding the management of the Federation Account. This point was reiterated by the Supreme Court in *Lagos State vs. Federal Government*, in which it argued that the federal government is neither the custodian nor trustee of the Federation Account, and that it should not operate the account only

according to its own desires (Ekpo and Englama 2008, 240). However, the federal government has used its power over control of the oil industry to circumspect what would have been real joint management of the Federation Account between it and the states. J.K. Naiyeju, the former Accountant-General of the Federation, has aptly noted that "the revenue generating collecting agents are mostly federal organs" (Naiyeju 2011, 38). These federal agencies include the NNPC that has been described as blatantly secretive and non-transparent (International Crisis Group 2006, 23; Gillies, Sayne, and Katsouri 2015). The popular opinion, therefore, is that these organizations have refused to remit all the oil revenues they collect into the Federation Account, diverting these revenues instead to the federal government and top politicians representing that level of government (Suberu 2001).

Thus, although the Supreme Court's judgement of 2002 declared the federal government's practice of non-remittal of revenues from natural gas into the Federation Account illegal, this practice has continued informally or through the back door. Also, despite the existence of the Federal Accounts Allocation Committee (FAAC), a statutory intergovernmental committee that affirms each month's division of revenues from the Federation Account, and the RMAFC, a constitutionally-mandated and supposedly-arm's-length revenue body whose members represent the 36 states and the federal capital, created to monitor accruals into and disbursement from the Federation Account, ultimate power over the management of the federation Account resides with the federal government because of its sole undivided power to collect these revenues. Thus, while the power over disbursement is shared between federal and state governments, with the states participation ensured through the FAAC where state finance officials decide together with their federal counterpart whether the division of revenues by the Ministry of Finance is fair to all states or not, the power to collect revenues to be shared from oil companies is handled largely by agencies and parastatals owned by the federal government such as the NNPC, and the Federal Inland Revenue Service (FIRS). Many policy-makers, academics, and government officials have argued that the federal government and its officials have been using their power to divert increasing proportions of oil revenues to themselves rather than paying everything to the FA as stipulated by the constitution. This allegation was significantly validated in 2014 when Lamido Sanusi, then the CBN governor, alleged that over $20 billion in oil money meant to be deposited into the Federation Account was diverted by Goodluck Jonathan's federal government. The government denied this allegation, but its own audit carried out by PWC in 2015, despite producing what many consider a watered-down report, nevertheless acknowledged that there were some issues with accountability of oil money: the NNPC was found to have failed to remit $1.48 billion to the federal government between January 2012 and July 2013, while an Auditor General's report in 2016 indicated that the figure of the NNPC's unremitted funds was $16 billion (BBC News, March 15, 2016).

5.8. Conclusion

As with the previous chapter on Canada, this chapter on Nigeria focuses on the three broad themes that provide the framework for the analysis of oil conflict: ownership, control/management, and revenue sharing, with emphasis on onshore oil and the upstream sector. This presentation will serve as the background for the in-depth comparison in the next chapter of the two federations with particular focus on the relationship between oil and intergovernmental fiscal transfers. This chapter traces the historical, constitutional, and regional contexts of oil development in Nigeria, with primary focus on federal-state dimension of institutional rules and conflict over oil. The chapter traces the origin of institutional rules concerning oil with regard to the emergence of Nigeria as a federation formed through the devolution of the previous unitary colonial state, and also point to the conflicts concerning these rules, the settlements of these conflicts, and the bargaining power of the states which is partly influenced by the particular way they were created. An important development in the Nigerian case was also the path-shaping role of critical junctures such as the discovery of oil itself, military rule, civil war, and the oil price crises of 1970s-80s. As I show in the next chapter, these critical junctures have left their marks on current practices, creating in the processes a number of states (in conjunction with the federal government) with vested interest in the continuity of the centralized rules allocating power over oil and oil revenues, in spite of ongoing clamour, especially by the oil-producing states for a more decentralist framework that would at least lead to more revenues to them.

CHAPTER 6

OIL REVENUES, INTERGOVERNMENTAL FISCAL RELATIONS AND CONFLICT IN CANADA AND NIGERIA

6.1. Introduction

This chapter carries out a comparative analysis of intergovernmental fiscal transfers or oil revenue sharing in the two federations. It builds on the background country case studies presented in the two previous chapters to offer explanations of the roles of federal constitutional rule (both formal and informal), societal factors, and political practices in shaping oil-related fiscal transfer in Canada and Nigeria—the equalization program and Federation Account transfers, respectively—carried out within their historical contexts and with primary focus on conflict between the two orders of government and between states or provincial governments. Although federal constitutional rule is the primary explanatory factor discussed here, the chapter also explores the processes of interaction between this factor and salient social and political factors, highlighting ways in which federal institutional designs shape, and are shaped by, conflict. The application of the historical institutionalist model to this comparison is central to my analysis, while also keeping the influences of processes of historical continuity and change, and (re)balancing of federal constitutional arrangements, in mind. To this end, the chapter also explores the temporal dimension emphasizing important analytical factors such federal origins, and legacies, of authority allocation of power over natural resources or oil, timing and sequence of federal institutional ruleover oil vis-à-vis the development of oil, critical junctures such as military rule, civil war, and oil shocks in Nigeria and the return of Prairie resources and oil price shocks in Canada and the role(s) and agency—choices and decisions—of political actors representing the orders of government in capitalizing on these historical contingencies to challenge or support existing institutional arrangement over oil.

I chose the challenge of intergovernmental fiscal relations as a dimension of the three broad aspects of oil management—ownership, control, and revenue sharing—to systematically compare across the two federations because as Lecours and Beland aptly noted, “in virtually all federal systems” suchtransfer system “triggers some discontent amongst federal units” (2010, 569). But not just amongst federal units, intergovernmental fiscal transfer, as the Nigerian case vividly demonstrates, can also generate vertical tensions depending on its design. A major reason why discontentment and tension often characterize intergovernmental fiscal transfers is its redistributional quality. While redistribution aims at mitigating interregional disparities in federations, the intergovernmental systemfor such redistribution is a source of serious political tension given the zero-sum game nature of redistribution (Boadway 2009). Especially in multinational federations where territorial boundaries largely correspond with the boundaries of an ethnic group, natural resources could become the focus of intense political and jurisdictional struggles,

given the uneven geographical spread of these resources and attendant interregional disparities, that could spur ethno-nationalism or secessionist bids. This chapter carries out a comparative analysis of the intergovernmental fiscal transfers and their oil component in Canada and Nigeria drawing from the background information on this issue provided in the previous chapter, while being attentive to the fact that while revenue sharing is the primary focus of this chapter, it cannot be adequately addressed in isolation from the other two dimensions of oil management which are ownership and control constitutional rights.

The chapter is presented as follows. First, it presents a brief overview of the similarities of intergovernmental fiscal transfer in both federations. This is followed by an analysis and explanation of differences using the key analytical category of federal institutional rule (both formal constitutional design and informal), with emphasis on the way in which federal institutions interact between with social/political factors to shape outcomes. A concluding statement follows.

Two clarifications are essential at this point. First, while a neat dichotomy between revenues from onshore and offshore revenues is difficult to achieve, this chapter shall primarily focus on onshore oil revenues, given the focus of the next chapters on offshore-related oil conflict, even though discussions here will also dovetail into offshore conflict. Second, while the comparative analysis below gives primacy to the salience of federal institutional structure and ideas and has put this emphasis at the centre of the analysis, the overall analysis is woven around the mechanisms through which federalism interacts with other important political, economic and social factors or conditions. This is consistent with the conceptual understanding of federalism as federal institutions, federal society, and political process or practices. It is also informed by the historical institution scholarship, which insists that "institutional arrangements cannot be understood in isolation from the political and social setting in which they are embedded" (Thelen 1999, 384). Indeed, the need for such combination of explanatory factors is even more apt with regard to conflict analysis where the Forum on Early Warning and Early Response (FEWER) has reminded us that "there is no single cause of a conflict…Different factors vary in importance and reinforce or neutralize each other. The analysis of the situation must therefore include assessing the relative importance of the different indicators and their interrelationship" (Forum on Early Warning and Early Response [FEWER] 2001, 7). Accordingly, while holding federal institutional design and idea as the entry point of conflict and conflict resolution over oil resource revenue sharing in Canada and Nigeria and the primary factor shaping similar and divergent conflict patterns in both federations, the analysis also considers the way in which federal institutional design / ideas interact with social-economic and political factors, particularly the configuration of ethnic diversity around oil and the degree of dependence on oil, and political practices related to interests of elites representing orders of

government operating through the mechanism of intergovernmental bargaining, to shape distinctive conflict patterns.

6.2. Similarities in Intergovernmental Transfers

The intergovernmental fiscal transfers of Canada and Nigeria are very similar, particularly with respect to the role of oil. First, both countries' intergovernmental fiscal transfers are geared towards the explicit ideas of social solidarity, with the goal of protecting territorial members of the federal community from suffering due to lack of resources (Béland and Lecours 2014; Suberu 2001). Second, these transfers are unconditional grants that do not place restrictions on how the transfers are spent. Third, non-renewable resources, particularly oil, are influential in both countries' intergovernmental transfer arrangements. In Nigeria, concerns over disparity in regional revenue led to a de-emphasis on derivation, which had been the sole criterion for revenue allocation when agriculture and mining were the main sources of revenue. It also led to the pooling of oil revenues into the Distributable Pool Account (DPA), the precursor to the present-day Federation Account, in order to share mining rents and royalties between what were then the northern, western, and eastern regions. In Canada, Lecours and Béland (2010, 584-85) also observed a similar trend in Canada's equalization: "From a purely materialist standpoint, the concentration of oil and natural gas in certain provinces (primarily Alberta, but also Saskatchewan, Nova Scotia, and Newfoundland) means greater interprovincial disparities in fiscal capacity than if these resources were evenly distributed. Greater disparities between provinces mean that receiving provinces are likely to seek greater territorial redistribution through equalization while contributing provinces are likely to push for a less substantial program."

6.3. Explaining Divergent Conflict Pathways: The Configuration of Institutions, Ideas, and Interests

Despite the similarities between Canada's and Nigeria's fiscal transfer policies, there are also significant differences, which can be explained using the variables derived from the working understanding of the operation of federalism for this thesis, as a complex of institutional-constitutional rule (including formal institutional design and ideas about federalism), diversity in federal society, and political practices related to mechanisms for intergovernmental bargaining over oil.

6.3.1 Institutional-Constitutional Rule & Design

Canada's equalization policy caters to horizontal fiscal disparities, while Nigeria's transfer system allows both horizontal and vertical sharing. A major reason for this difference is that, unlike Canada, the Nigerian federal government, the ultimate custodian of the federation account, also directly benefits from the transfers from this account. In other words, though intergovernmental transfers are largely controlled by the federal governments of both Canada and Nigeria, the equalization program is a federal government scheme in Canada, with transfers emanating from taxable per capita revenues of all

Canadians to the federal government, even though "residents of rich provinces" such as Alberta "will pay higher per capita revenues to Ottawa than the residents of poorer provinces" (Courchene 2015, 74); while in Nigeria, the funds shared belong to the whole federation. There are at least two implications for conflict that follow from the differences in transfer-policy design. First, the role of the federal government as a player and umpire in the fiscal transfer system adds another layer of complexity to resource revenue sharing in Nigeria, creating a perverse incentive for conflict that is absent in Canada. One major consequence of this is that the federal government has manipulated the revenue sharing formula in its favour, thereby leading to claims by the states of a vertical fiscal imbalance. To be sure, claims about vertical fiscal imbalance rose to a high pitch in Canada, beginning with the 1995 cut in federal cash support to provincial education and healthcare sectors. This decision prompted the publication of several reports by commissions established by the provinces, which drew attention to such vertical fiscal imbalance. Some of these include *A New Division of Canada's Financial Resources* (2002), produced by the fiscal commission established by the Quebec government of Bernard Landry and chaired by Yves Séguin, and *Reconciling the Irreconcilable: Addressing Canada's Fiscal Imbalance*, produced by the Advisory Panel on Fiscal Imbalance established by the Council of the Federation (2006). However, the transfers that were reduced through cuts that prompted these provincial mobilizations were not statutory requirements, but merely the federal government's assistance to provinces, even though these assistances help further the achievement of national objectives such as common levels of services. In addition, the cuts themselves were influenced by contingent events such as the 1992 recession and an unprecedented federal debt buildup (Winer and Hettich 2010). More importantly, the provinces have almost similar tax-raising powers to those of the federal government, with ultimate powers over their own taxes, including lucrative sources such as royalties on natural resources. This also meant that the provincial claims were more examples of political posturing than constitutional claims (Lee 2006), even though such challenge can generate, as Cameron and Simeon (2000) noted, legitimacy crisis for the federal government. In Nigeria, on the other hand, what the states consider fiscal imbalance is worsened by the fact that the states do not have taxing powers over lucrative taxes such as mining rents and royalties or value added tax, as these taxes are centrally collected and then redistributed to all states and local governments. A more significant issue than vertical imbalance, however, is the non-transparent management of oil revenues. The Federal Allocation Accounts Committee (FAAC) is made up of state commissioners of finance and federal finance officers who meet monthly to affirm each month's division of revenues. The Revenue Mobilization and Fiscal Allocations Committee (RMAFC), a supposedly arm's-length revenue body, which also includes members representing Nigeria's 36 states and federal capital, is mandated by the constitution to monitor the management of the federation account. However, despite the existence of the FAAC and the RMAFC, the real power over oil revenue resides with the federal government because of its sole undivided power to collect the revenue. Thus, while the power over redistribution is shared, the power to collect

revenues from oil companies resides with the federal government based on its exclusive legislative power over oil and non-oil mineral resources. The diversion of oil revenues meant for the whole federation by federal government officials has been a source of intergovernmental conflict in Nigeria. The federal government in Canada, meanwhile, has also unilaterally interfered in the equalization process; one such example is the introduction of ceilings that, in the opinions of the provincial governments, reduce the amounts that would otherwise have gone to them. Although such unilateral actions are beneficial to the federal government, they do not constitute abuse of constitutional powers or provisions. The fact that the equalization money belongs to it rather than both orders of governments meant that dissatisfaction with the way the federal government handles the program bothers more on non-compliance to normative expectations than constitutional violations.

Another major difference between Canadian and Nigerian fiscal-transfer policies is the basis of redistribution. Canada equalizes fiscal capacity, with the taxes used to measure fiscal capacity increasing progressively over time to 38 taxes or revenues, encompassing "eight different kinds of revenues from crude oil or natural gas, and six different kinds of revenues from other minerals" in the 1980s (Stevenson 2007, 141) before these taxes were streamlined into the current five tax sources. While as Lecours and Béland (2010, 572) noted, "such a multiplication of the tax sources used to assess provincial fiscal capacity increased the complexity of the equalization formula," the program's emphasis on financial rather than political factors help to mitigate undue conflicts. On the other hand, Nigeria's revenue sharing system is largely driven by the politically-sensitive criteria of equality of states, population, education and health indicators, landmass and terrain, and water, which are proxies for need and even development, with negligible consideration for states' revenue-raising capacity (RMAFC 2013; Suberu 2004).

Therefore, compared to the Canadian system of intergovernmental transfers through equalization, which, as many analysts have also pointed out, provides perverse incentives for provincial government fiscal responsibility, the Nigerian fiscal transfer system presents more perverse incentives for action. The Canadian equalization system aims to balance fiscal capacity to "allow less prosperous provinces to provide public services that are reasonably comparable to other provinces," which in essence means an emphasis on the ability of provinces "to raise own-source revenues at tax rates that are equal to the Canadian average across a range of types of taxation" (Eisen, Lammam, and Ren 2016, 6). To be sure, the Canadian model has not escaped criticism. For instance, Shah (1996) has criticized the program's sole focus on the equalizing per capita tax burden while leaving out the expenditure-need aspect of equalization, as is the practice used in federations such as Australia, Germany, and Switzerland, and even in transfers from provinces to municipalities in Canada. Shah further argues that the absence of expenditure need consideration in the program detracts from its meeting its constitutional goal of enabling the provision of "reasonable comparable levels of public services at reasonably comparable

levels of taxations" to Canadians irrespective of their location. By comparison, the Nigerian framework focuses would seem to be an extreme opposite of the Canadian case as it almost exclusively focuses on expenditure needs even development, with negligible attention on fiscal capacity. Of the seven principles or factors used in the formula for horizontal sharing of revenues from the Federation Account, only 10 percent weight is assigned to the criterion of 'states' independent revenue efforts,' which is the proxy measure of fiscal capacity, with the bulk of the weight assigned to politically-driven criteria such as equality of states, population, education and health, water, landmass and terrain.

Table 8: RMAFC Formula for Horizontal Distribution of Revenues

Principle/Factor	**Percentage allocation**
Equality of states	40.00
Population	30.00
Internal revenue generation efforts	10.00
Landmass & Terrain	10.00
Education	4.00
Health	3.00
Water	3.00
Total	100.00

Source: RMAFC (2013).

This is not to say that Canada's equalization is not sensitive to political pressures or push and pull. Some scholars and commentators on Canadian federalism have pointed out this political angle of the equalization program. For instance, one important political driver of the program to which Courchene (2007) has alluded is its origin in attempts by the federal government to prevent other provinces from following the lead of Quebec after the latter attempted to force decentralization using fiscal instruments which it had kickstarted by opting out of the tax rental arrangement after the end of World War II. Béland and Lecours (2014) have also noted that a key, yet unspoken, goal of the equalization program has been to manage Quebec nationalism in order to prevent the province from seceding from Canada. Claims, particularly by commentators on the far right, that the program has pandered to Quebec interests by removing hydroelectricity revenues from the equalization formula can also be situated against the political role of Quebec in the equalization scheme. Also, Béland and Lecours have noted that calls for the establishment of an arm's length agency to administer and de-politicize the program foundered due to the political purpose that the absence of such an agency serves for the federal and provincial governments. The absence of an administrative agency for the equalization program not only

allows “premiers to challenge the federal government publicly over how their province is being treated by the program in any given year” (Béland and Lecours 2012, 5) and thereby negotiate favorable terms for their provinces, but also enables the federal government to exercise discretion and control over the equalization program, to respond to provincial demands in ways that are politically beneficial to it, such as by using equalization payments to curry electoral favours (Lecours and Béland 2013; Béland and Lecours 2014). These examples demonstrate that equalization is politically charged in both Canada and Nigeria, but unlike in Canada, the formal design of the Nigerian equalization program is inherently and deeply embedded in politics.

At the root of the extreme or wider scope of politicization around the design and operation of Nigeria’s transfer system is the dependence of the whole federation on a single export commodity for the bulk of the government’s revenues and exports. A more important factor, however, is the limitation placed on the path of institutional innovation by the constitutional rule that specifies which factors can be used in designing the formula for the sharing of revenues from the federation account. These factors are vulnerable to political manipulations and are thus potentially explosive.

In 1977, the Aboyade Technical Committee attempted to de-politicize Nigeria’s revenue system. These attempts were unsuccessful, as the members of the Constitutional Drafting Committee (CDC), who were tasked with approving the committee’s recommendations, felt that the proposed formula relied too heavily on technical indicators and removed politics from what was essentially a political matter. Also, the creation in 1999 of the RMAFC was meant to protect the transfer system from political interference. The constitution empowers the agency to monitor accruals into and disbursements from the federation account. Yet, the RMAFC has been hamstrung not only by the constitutional provision that specifies the principles on which revenue allocation is based, but also by the agency’s own design, which has been further influenced by politics, given its status as a federal executive body, even though it was supposedly designed to be an independent body (Suberu 2017). Thus, while scholars of Canadian equalization such as Lecours and Béland (2013) have called for the establishment of an arm’s length agency to implement Canada’s equalization program, as is the case in other federations such as Australia, the Nigerian example demonstrates that not just the existence, but the particular structuring or design of an ‘arms-length’ organization also matters in how efficiently and effectively the organization can perform its functions. For instance, in Nigeria, the RMAFC has watched helplessly while the federal government continues to use its ultimate power over the Federation Account to tamper with that Account.

As stated previously, the most egregious evidence of the lack of financial transparency is the by the federal government’s non-remittance of all revenues, largely from oil, meant for to be shared by the orders of government through the Federation Account. Although the RMAFC, the agency constitutionally vested with the power to monitor these revenues, has, sometimes criticized this violation, it has not been able to prevent such violations from happening. While this weakness has much to do with the

secrecy of the financial system of Nigeria's oil industry (from where the bulk of funds in the Federation Account come from) in general and the opacity of the state oil company—the NNPC—in particular, which makes it difficult to know exactly how much money is generated from oil, it also has to do with the RMAFC's lack of complete independence to monitor finances and ensure compliance with rules regarding the remittance of funds. The RMAFC was conceived as an intergovernmental agency, with independence granted to it by Section 158(1) of the Nigerian Constitution of 1999; however, despite this constitutional status in theory, in practice its organizational structure is enmeshed and entangled in politics. The 37 RMAFC commissioners are appointed to represent the 36 states and the federal capital Abuja, thus giving the impression of representing state interests. Yet, the fact that the commissioners are appointed by the president, with some of them appointed from state branches of the president's party, makes them to be beholden to the interests of the president who appointed them, and by implication, the federal government. For instance, in preparation for the 2015 general election, RMAFC chairman Elias Mbam openly compromised the organization's supposedly 'neutral' status when he accepted a nomination as a member of the ruling People's Democratic Party (PDP) Ebonyi state committee for the reelection of then-incumbent President Goodluck Jonathan, and participated in campaigns in which he urged electorates to reelect the president who had appointed "The sons and daughters of Ebonyi," including himself, into different positions in his government (*Vanguard*, January 16, 2015).

Besides the commission's vulnerability to extreme politicization, its emphasis on the use of political criteria to determine the revenue formula has also led states that are automatically guaranteed revenues from the Federation Account to de-emphasize the development of their own internal revenues. This implies that most states depend overwhelmingly on redistributed revenues for their budgets (Suberu 2004). This development has undermined the vital role of competition that is so crucial for local prosperity in federations. By breaking the critical nexus between expenditure authority and revenue raising responsibility, and by giving sub-national governments the opportunity to spend money without the responsibility to raise revenues, the Nigerian fiscal structure has actively aggravated the country's economic failure and fueled truly monumental levels of corruption, waste, and mismanagement at all three tiers of government (Suberu 2004). This view is supported by research which shows that public scrutiny is enhanced when people are taxed and vice versa (Brautigam, Fjeldstad, and Moore 2008; Rodden and Wibbels 2010). Thus, what makes the Nigerian situation of states' fiscal autonomy worse is that the states do not independently tax their populations, as funds (largely oil revenues) are guaranteed from central transfers. Under this circumstance, the states can rebuff the federal government as they wish, and they can also damn their citizens. Worse still, given the fact that these state governors use their control over party machinery and the electoral process to influence elections to their Houses of Assemblies, they are also free of the institutional restraints of the legislature on abuse of executive powers. The absence of both societal and institutional constraints on state governors in Nigeria provides

incentives for opportunistic behaviors that undermine stable vertical bargains. Rodden and Wibbels (2010, 636-637) hit at the root of the problem when they stated:

> Large intergovernmental transfers and a lack of independent taxing authority are likely to make the attribution of responsibility for fiscal performance more difficult. Thus, in systems where provinces are highly dependent on transfers, voters are likely to either wrongly attribute responsibility for provincial outcomes or not attribute responsibility at all. In contrast, where regional governments collect most of their own taxes, accountability for provincial performance is likely to increase.

In a federal system in which state and local government revenues have little to do with taxes paid, it is not surprising that the use of revenues from oil extraction by the sub-national governments continues to tilt toward corruption rather than transparency, recurrent expenditure (such as payment for political appointees) or consumption rather than regenerative capital expenditures (Okpanachi 2010). Compared to Canada, where total major federal transfers generally (including equalization payments and health and social transfers) currently make up approximately between 30 and 34 percent of total provincial revenues in the Maritime provinces (Prince Edward Island, New Brunswick, and Nova Scotia), the provinces most heavily reliant on transfers (Eisen, Lammam, and Ren 2016, 8), in Nigeria, transfers from the FA, the bulk of which comes from redistributed oil revenues from the Federation Account account for about 80 percent of most state governments' budget revenues while the proportion of their own internally generated revenues remain at a paltry 20 percent (Suberu 2013). While total federal transfers to the oil-producing provinces of Alberta, British Columbia, Newfoundland and Saskatchewan who are the provinces that are least reliant on federal transfer of all Canadian provinces account for between 10 to 13 percent of these provinces budget, the oil-producing states in Nigeria are the most transfer-dependent states in the country, as they share from the Federation Account in addition to receiving 13 percent of oil revenues up front, based on the derivation principle before the revenues are paid into the Federation Account. As Asadurian, Nnadozie, and Watchekon (2006, 408) have argued, an important consequence of the relative inability of Nigerian states to develop revenue capacity from their own sources, a development facilitated by the "concurrence of the oil boom and fiscal centralization", has been the "underprovision of local public goods and decrease in social welfare", with the centralized redistribution of oil revenues not only fostering a "transfer-dependent system lacking an appropriate accountability and proper incentive structure" for growth and the provision of public goods, but also leaving it unable to reduce the regional disparity it was designed to tackle (Asadurian, Nnadozie, and Watchekon (2006, 408).

Because equalization is merely a component of the broader federal government transfer structure in Canada, even provinces that regard themselves as being treated unfairly in the equalization scheme do receive compensation when we consider the entire range of federal transfers. Aside from equalization, which not all provinces qualify to receive, there are also other non-equalization federal transfers for which all provinces qualify (Holden 2007). Thus, even though Alberta has not received equalization

transfers since the early 1960s, it does benefit significantly from overall federal transfers. For example, while Alberta did not receive equalization payment in the 2004 financial cycle, its share of non-equalization federal transfers to provinces was more than those of Quebec, Ontario, and British Columbia (Holden 2007). Interestingly, Quebec, which was the highest equalization-receiving province by population, received the lowest non-equalization transfer (Holden 2007). Balancing provincial interests through different forms of fiscal instruments other than equalization helps to mitigate higher conflict potentials that would have arisen had the focus been only on equalization, from which only certain (and not all) provinces can benefit at a time. This is not to suggest that conflicts over the non-equalization transfers themselves do not occur, but these battles are largely disagreements between federal and provincial governments, with the horizontal dimension of the conflict muted by the fact that one province's gain does not equal another province's loss. Nigeria lacks these compensatory transfer frameworks, thus accounting for the zero-sum nature of disputes concerning the Federation Account. This also explains why the desire of oil-producing states for greater shares of oil revenues transferred to them via derivation has been fiercely opposed by the non-oil-producing states. The resulting gridlock has been a perennial fact of Nigeria's intergovernmental fiscal relations, which has poisoned both social and political relations. It bears repeating that this situation is largely made possible by the overwhelming reliance of Nigeria as a whole on oil revenues. Besides creating transfer dependence (Asadurian, Nnadozie, and Watchekon 2006) as stated previously, this dependence has also made the compromise that would make further decentralization of oil revenues to the oil-producing states difficult, with all the danger the stalemate that has sustained centralization of oil revenues portends for peaceful coexistence in the Nigerian federation. For instance, centralization has led to struggles for resource control among the oil-producing states.

The final comparison to be considered regarding the institutional-constitutional basis of conflict is the degree of the adaptation of the institutional designs of the fiscal framework to changes and the complexion of conflict generated by a particular form of adaptation. Overall, Canada's and Nigeria's respective transfer systems demonstrate key differences in their ability to respond to changing times and circumstances. Although both federations face the challenges of designing their programs to ensure that oil-producing provinces/states do not reap all revenues from the resource and further increase regional disparity, the Canadian equalization framework has demonstrated more flexibility and predictability than that of Nigeria. The Nigerian transfer system design has fluctuated between a high degree of unpredictability during the years of military rule, and stagnancy following the country's return to civilian rule in 1999. These patterns of continuity and change have implications for conflict mobilization.

Because sharing factors and weight are not referred to in Canada's constitution, the country has retained the flexibility allowing it to respond to changing circumstances such as decreases in international oil

prices. To be sure, there are valid complaints about the pernicious effect of the time lag between equalization review and its impact on a province whose economic status or condition changes during the time lag, for example, as a result of economic shock such as deepening oil price falls. As Premier Brad Wall of Saskatchewan has noted, such a time lag hurts provinces rich in resources such as oil, that suffer from the effect of sustained declines in the prices of their primary products: "the current formula has about a three to five year lag in terms of oil prices really effecting the payouts, so for three to five years Albertans – who contribute $2 billion to this program, and Saskatchewan residents who [contribute] half a billion every year – will continue to pay in even though oil [is] at $46 today. That's a deficiency" (Fawcett 2016). Thus, seen from this perspective of the time lag effect for a 'have' province whose economic situation suddenly deteriorates with such deterioration sustained over a long period to become a 'have-not' province in order to benefit from equalization payments rather than still serving as a net contributor, the equalization the equalization program has its own inbuilt rigidity that prevents proper responses to changing economic conditions. As a result, some of the 'have' provinces whose primary commodity that gave them the status of 'have' provinces in the first place is experiencing volatility would have to endure the hardship of insufficient funds for their budgets. This may translate into deferred investments in social services and capital projects, as compared to provinces whose tax capacities are not based on that resource at that point in time. This situation is antithetical to the aim of equalization, which is to make "payments to ensure that provincial governments have sufficient revenues to provide reasonably comparable levels of public services at reasonably comparable levels of taxation" (Constitution Act 1982). Yet, in spite of this shortcoming, the fact that the Canadian transfer system does not restrict the country to the use of specific taxes as sources of fiscal capacity shows the extent of flexibility inbuilt in the system. Thus, Canada is better equipped at least to respond more effectively to changing circumstances than Nigeria. Accordingly, through its periodic review, despite lags in time, the Canadian system has the potential to address areas of conflict in an existing formula. For example, a particular tax factor or principle that is problematic or that has become unfair due to changes in the financial situations of the provinces can be replaced or modified. In Nigeria, on the other hand, the opportunity to address such issues is limited. To be sure, there may be not be a political consensus on the choice of a tax field to be changed or modified in Canada, as choosing one rather than the other creates winners and losers, but doing so nevertheless offers the opportunity to address inefficiency in the system.

Compared to that of Nigeria, the Canadian system is designed to better respond to changing financial fortunes of provinces, considering that depending on the province's economic situation, a recipient of equalization may not receive it over time. Alberta is a prime example: at its inception and before the oil industry was making significant contributions to the economy, it received equalization. This changed after 1962, when natural resource revenues were added to the tax sources used to determine the fiscal capacity of provinces (Stevenson 2007). Similarly, the flexibility of the Canadian system is also

illustrated by the fact that equalization beneficiaries can become equalization net contributors. Admittedly, the fact that Alberta has been a net contributor for decades, and that provinces such as Prince Edward Island and Quebec have been receiving equalization for a long time, may seem to disprove the claim of flexibility, and may even support the claim that the lack of changes in these provinces' status could be due to the possibility that equalization might create a disincentive to develop their resources. Yet, as Ontario receiving equalization for the first time in 2009 (Howlett and Taber 2015) illustrates, the status of provinces can and does change over time rather than being static. By contrast, the overwhelming dependence of Nigeria's Federation Account on oil revenues rather than a more diverse tax base makes the revenue profiles of the states largely homogeneous – except for Lagos, the main commercial centre – and thus more susceptible to volatility cycles all at once. Accordingly, the issue of changes in the financial status of states does not even arise, except from the perspective of oil price volatility.

The constitutions of both Canada and Nigeria mandate transfers – in Section 36 of the Canadian Constitution of 1982 and Section 162 of the Nigerian Constitution of 1999, respectively – but the Nigerian Constitution, unlike its Canadian counterpart, enumerates the principles to be used for the transfer in more detail. As stated previously, section 162 (1) of the constitution provided for the creation of a 'special account' known as Federation Account into which all revenues collected by the federal government, with few exception, shall be paid. Anderson noted the bizarreness of this provision which amounted to putting all public revenues in one shaky basket (given the fact that the Account is dominated by oil revenues, with all its cyclical turns and twists) when he stated: "It is rare to have an arrangement where the vast majority of federal revenues should be placed into an account that is to be shared between the two orders of government for this to be by far the primary mechanism for financing the orders of government." In addition, section 162 (2) provides that "in determining the formula for the sharing of revenues from the Federation Account, the National Assembly shall take into account the allocation principles, especially those of population, equality of states, internal revenue generation, land mass, terrain as well as population density" in any revenue formula. This stipulation means that the Nigerian system precludes the adaptation of the revenue system to changing circumstances. Although the revenue formulas encompassing these principles are supposed to be reviewed every five years, what is reviewed in practice is the weight attached to these principles and not changes to the principles themselves. The current revenue formula inherited from the military has been in use since 1992, and aside from minor changes implemented by three executive orders, has not been significantly updated. This fact demonstrates the difficulty of changing either the principles or the percentage of revenues assigned to the orders of government. The incentive for conflict is greater with regard to the derivation formula, which is not only enshrined in the constitution but also involves percentage benchmarks below which the weight assigned to each principle must not fall. The constitution went beyond specifying the principles for the horizontal sharing of funds and assigned a minimum benchmark

for the derivation formula, specifying that it must not fall below 13 percent of oil revenues. This means that the derivation fund is withdrawn from oil revenues before those revenues are deposited in the Federation Account. This direct stipulation assigning specific weights to derivation criteria may have been intended to minimize insecurity resulting from successive governments' constant tinkering with the derivation principle; however, it also produces a layer of rigidity that has further politicized the revenue allocation system. By setting a floor of 13 percent without stating the conditions under which the weight can be increased, the constitution has permanently ingrained conflict into the architecture of Nigeria's fiscal regime. This conflict has periodically threatened to erupt openly, particularly at significant moments such as periods of constitutional reforms, when oil-producing states ask for increases in the amount assigned to derivation. As well, the benchmark can lead to increased regional disparity in a federation that depends overwhelmingly on oil revenues whenever oil prices increase. For instance, as a result of a steady rise in oil prices, "the four major oil producing states received 34 percent of total transfers in 2005, up from 25 per cent in 2001" (Anderson 2007). To put the figures in another perspective, in 2008, six oil-producing states—Akwa Ibom, Bayelsa, Cross Rivers, Delta, Edo, and Rivers—"received the sum of $7.1 billion out of $16.5 billion allocated to the thirty-six states of the federation" (Ibaba, Ukaga, and Ukiwo 2012, 1), which is almost half of the revenue allocation for the remaining 30 states. These figures led Anderson (2007) to conclude that "Nigeria probably has the most unequal distribution of state revenues of any federation in the world." This situation is hardly surprising because, as Anderson (2007) rightly suggests, in Nigeria "the debate has seemed strongly focused on various detailed allocations and rights, with not much attention to the bottom line question, namely, the overall consequences of [the] fiscal regime."

In Canada, on the other hand, the absence of sharing factors in the constitution has allowed for the flexibility to respond to changing circumstances such as declining oil prices, although the five-year time span for periodic reviews of the formula does not enable proper responses to exigencies as stated earlier. This has been considered a weakness of the equalization payment design, but the constitutional rule regarding equalization transfers does not specify that certain tax instruments or percentages must be used in calculating them. As a result, the Canadian equalization system is able to respond more effectively to changing circumstances than its Nigerian counterpart. In addition, periodic reviews allow the Canadian system the potential to address areas of conflict, such as by modifying or replacing particular tax factors or principles, while the Nigerian system's ability to address such sticking points is limited or even absent due to the constitutional stipulations of certain division principles. Yet, the fact that the taxes to be used are negotiated outside an arm's length body, on an ongoing basis, every five years in Canada shows the grave incentive for politicization built into the program, which both federal and provincial governments find attractive to retain as a bargaining chip (Lecours and Béland 2013; Stevenson 2007).

The rigidity of constitutional rules regarding the Federation Account, an account on which all governments depend for revenues, creates an inbuilt potential for conflict. For instance, the resistance of non-oil-producing states, particularly those in the north, to increases in the derivation principle should be viewed against the background of what those states stand to lose in a revenue sharing arrangement which already confers immense advantage to the oil-producing states through the same derivation principle, even though this opposition has in turn fuelled animosity and frustration in oil-producing states. For their part, the oil-producing states, which are a political and numerical minority in the national contexts, regard the prospects of gaining concessions in increases to the derivation fund as dependent on other states that do not experience the economic deprivation, underdevelopment, or environmental degradation of the Niger Delta states and communities. This is a major driver of oil conflict in Nigeria, conflict which has also intensified into violence and criminality in the resource-bearing communities of the Delta.

Indeed, there is an irony here regarding the opposition of the majority of the non-oil producing states to increases in the weight attached to the derivation formula, which the 1999 Constitution essentially made applicable to all mineral revenues, not just oil. State cooperation on this issue would be beneficial to all states, as they would benefit from the revenues generated by different kinds of mineral resources. However, because other mineral resources are not as developed, and thus not as profitable, as oil, the states have focused on oil at the expense of the opportunities that the development of other mineral resources would have provided.

To reiterate, convergence of state's self-interest over oil is undermined in Nigeria where most natural resources (including mining and hydro) belong to the federal government, and where, unfortunately, most minerals, apart from oil, have not been developed. While each of Nigeria's states has several solid minerals from gold to gypsum, their non-exploitation deprives most states of the federation the 13 percent derivation which should have come to them from these resources. With responsibility over solid minerals vested in a federal government who has shirked this responsibility by refusing to develop these minerals that are found in all states of the federation as a result of fixation with oil revenues, the mining of these non-oil minerals has been dominated by illegal miners. As lamented by the Director of Artisan and Small-Scale Mining in the Federal Ministry of Solids and Minerals Development, Mr. Olusegun Oladipo, illegal miners numbering over 1 million are having a field day due to the absence of real mining in the country and that at the moment government's policy in the sector is just the "scratching of the surface" (*Daily Trust*, June 21, 2006, 39). In 2016, Kayode Fayemi, Nigeria's Minister of Solid Minerals Development, lamented that about 100 kilogramme of illegally-mined gold are taken out of the country everyday (*Premium Times,* April 3, 2016). Thus, as it is presently, even though the 1999 Constitution intended that the 13 percent derivation returned back to state where it originated from should apply to all mineral resources, the non-exploitation of non-oil minerals has led to overemphasis on the derivation

paid for oil, which is the only developed mineral in the country. As oil is located in only 10 of the 36 states, clamours by these oil-producing states for increase in the derivation formula has been resisted by the non-oil, but other mineral-rich states who have raised the alarm that significant increase in the percentage weight attached to derivation will substantially reduce the funds from the Federation Account (which consists mainly of oil revenues) that will be distributed to them. By not developing the country's many non-oil minerals, the country has continued to miss the opportunity to divert attention from the oil and gas sector, undermine the perception by oil-producing states that they contribute disproportionately to the country's national economy, starve off the agitations for resource control this perception provokes in oil-bearing communities, reduce the gridlock that attends proposal for enhanced revenues for the oil-producing states and the dangerous backlash for example, violence and conflict, such stalemate has generated over the years.

Thus, unlike Canada, in which all provinces own and benefit from natural resource development and hence are jointly motivated to prevent incursion of the federal government into this important constitutional area, in Nigeria, some (and very few) and not all provinces would benefit from a decentralized system of oil (the only developed mineral). Thus, they are unwilling to support many proposal to shift ownership/control to the states or reconfigure the sharing of oil revenues in such a way that resource-rich states will benefit substantially, as it was from federalization in 1954 to the end of the First Republic in 1966, when derivation to regions (and later states) was 100 percent and later 50 percent of mining rents and royalties compared to the present 13 per cent weight given to derivation. Instead of general cooperation to rebuff the federal government's intrusion into provincial competence over natural resources as in Canada, considering that doing so makes every province a winner, in Nigeria, what largely results is a 'silo mentality,' since decentralizing oil ownership, control, or revenues means gain for the oil-producing states and no gain for those that do not produce oil.

With that said, my comment above regarding shared interest in Canada over natural resources general should be qualified when it comes to oil, which poses a unique challenge compared to other natural resources to Canada, not just as a result of the huge economic rents that oil brings compared to other resources, but also the fact that in situations of oil price hike, Canada's peculiar dual market of producers and consumers, which turns what would have been a win-win condition to a zero-sum one in favour of producing provinces, would turn the kind of broad consensus over control of oil on its head, creating also a silo mentality of us vs. them. This was the case during the oil crises of the 1970s and 1980s.

The conceptual understanding of federalism that drives this project views the operation of federalism as not merely the interactions between institutional rule and federal society, but also the outcome of the interaction of federalism with other auxiliary institutions and the political practices that these institutions embody. Central to the operation of federalism in these federations are what Simeon and

Papillon (2006, 96) described as "the political framework within which federalism is embedded." An important consideration here is the national government's representative institutions and the avenues for the representation of the interests and identities of territorial governments in these institutions. This understanding leads to an examination of the influence of the political-institutional mechanism for intergovernmental bargaining, regarding changes to the fiscal transfer system, on conflict.

The primary political framework for intergovernmental bargaining in Canada is executive federalism. As stated previously, given the closely-knit relationship between executive and legislative branches of government ensured through party discipline and an upper legislative chamber whose members are appointed by the prime minister rather being elected by citizens, bargaining takes place largely through executive-executive channels, namely between the prime minister and premiers, and other bureaucratic representatives of the two orders of government. Executive federalism is made more central in Canadian politics given that "constituent units have no effective representation in central institutions and therefore cannot shape federal policy making" (Lecours and Béland 2009, 582). By comparison, formal intergovernmental bargaining in Nigeria is embedded within the political framework of the presidential system, characterized by the separation of powers between the executive and legislative branches. Hence in addition to president-governors channels of largely informal intergovernmental negotiations, negotiations formally take place between the federal executive represented by the president, and the legislature, represented by the National Assembly, which consists of the Senate and the House of Representatives.

The influence of executive federalism on the development of the equalization program has been mixed. The mechanism did allow for the establishment of some form of equalization payment even before it officially began in 1957 and prior to being formally entrenched in the Constitution of 1982. Equalization had been used as a method of appeasing discontented provinces, beginning in 1869, with the granting of additional subsidies beyond the statutory grants that the BNA Act of 1867 guaranteed for the four original provinces, in order to prevent Nova Scotia from leaving the federation. While the normative idea of fairness and equality behind equalization in its early beginning was not uncontested, it would appear that a consensus emerged around it, as the provinces who had protested the granting of these concessions to Nova Scotia, which they described as unconstitutional, "adopted the more fruitful approach of seeking their own 'better terms'" (Stevenson 2007, 128).

Therefore, the role of norms was more important in Canada's fiscal federalism than in Nigeria, where intergovernmental transfer design has been codified either in the constitution or in other auxiliary laws. Yet, while it provides the opportunity for flexible decision-making outside official rules, executive federalism can introduce conflict into intergovernmental bargaining, the reasons for which may include entrenched interests. Harvey Lazar (2008) has noted that provinces that had banded together to demand more funding from the federal government to solve what they considered a vertical fiscal imbalance

could not replicate such "common ground" with regard to equalization because, unlike the vertical fiscal imbalance, the outcome of bargaining for equalization does not produce a win-win situation for all provinces. As stated earlier, this question of provincial interest is more pronounced with regard to the questions of whether or not to include natural resources in the calculation of provincial fiscal capacity, and, if yes, what rate of inclusion is fair. This problem is made more complex by the fact that, even though natural resources belong to provinces, their inclusion would have sharply varied impacts on individual provinces "due to their large differences in resource endowment" (61). This explains why negotiations are fierce during the periodic renewals of equalization terms. The conflict over interest is exacerbated when the negotiations for equalization concessions are besieged or assailed by perceptions of violation of trust (Bickerton 2008). This was the situation when Prime Minister Paul Martin's minority government, determined to shore up his electoral base by scooping the votes from Newfoundland's swing ridings of St. John's North, St. John's South, and Bonavista-Exploits (Higgins 2012), negotiated 'side deals' with the governments of Newfoundland and Nova Scotia aimed at protecting their equalization payments from clawbacks as revenues from their offshore resource increase. Signed in February 2005, the Atlantic Accords specified the federal government's "commitment to compensate Newfoundland and Labrador, and Nova Scotia, for 100% of lost equalization payments resulting from higher offshore revenues" by providing offsets to compensate for the effects of the equalization program on increasing offshore energy revenues (Holden 2006, 10).

However, before Martin eventually signed the deal in 2005, tensions had risen between him and Premier Williams of Newfoundland over the latter's insistence that the offset provision in the Canada-Newfoundland Atlantic Accord of 1985 should be renegotiated to enable Newfoundland to "retain 100 percent of the benefit of the offshore petroleum revenues it receives," even though the extant equalization program provided that "70 percent of [petroleum] revenues be clawed back to the federal treasury" (Dunn 2005). From Premier Williams's perspective, his proposal was just an affirmation of the promise that Prime Minister Martin made to the province's electorates during the 2004 election. However, he felt that the Prime Minister betrayed the province with a proposed modification to the equalization that reduced the number of years that Newfoundland could benefit from the offset as well as a ceiling that prevented the province from benefiting from the offset payment any year that such payment would make its fiscal capacity exceed that of Ontario (Dunn 2005). Premier Williams's reactions to these proposed changes were to walk out of a First Minister's Conference (FMC) on equalization in October 2004, and to order the removal of Canadian flags from Newfoundland's public places (Dunn 2005). With his government transformed into a minority one and tainted by a sponsorship scandal amidst an imminent election, Martin was forced to enter the 2005 agreement with Williams (Higgins 2012), which "effectively delinked equalization payments to NL and NS from the national formula" (Bickerton 2008, 102). When Martin lost the election, Stephen Harper, who defeated him, had also promised in 2006, again during electioneering campaign designed to win votes in resource-rich provinces such as

Newfoundland, Nova Scotia, and Saskatchewan (Lecours and Béland 2010), to remove non-renewable resources from the formula for the computation of provinces fiscal capacity for the equalization payments (Dunn 2005). Harper argued that "non-renewable resources such as oil and gas are among the most promising avenues for real growth in Atlantic Canada… When the federal government taxes [offshore oil and gas] revenues away by 70 cents to a dollar, however, they jeopardize the opportunity to establish longer term growth" (Dunn 2005). Like Martin before him, Harper also introduced changes to the equalization formula that were essentially perceived by Newfoundland and Nova Scotia as broken promises and breaches of trust (Bickerton 2008). The changes that came with the March 2007 budget, which, following the recommendation of the O'Brien Report, introduced the much-vexed cap on the equalization entitlement designed to prevent any of the equalization-recipient provinces from receiving equalization if the fiscal capacity of that province exceeds that of Ontario, which was then the lowest non-equalization receiving province (Bickerton 2008). This change, which was the major sticking point in the contention between Prime Minister Martin and Premier Williams before the 2005 Atlantic Accords were signed, essentially "killed the federal commitment in the Atlantic Accords to delink the offshore oil and gas revenues of" Newfoundland and Nova Scotia (Bickerton 2008). This, in practical terms, meant that the equalization payments of these provinces would be reduced as their offshore revenues increased, a development that threatened to undermine the original 1980s and the 2005 Atlantic Accords' goals to allow the two Atlantic provinces to become the principal beneficiaries of their offshore oil resources as if these were on land.

The point to note in all these back-and-forth shifts regarding the intersection of equalization with offshore mineral resources is the political opportunity provided by executive federalism for flexible action. Paradoxically, this opportunity is also its weakness, as it provides the same chance for intergovernmental agreements to be repudiated unilaterally, thereby generating political firestorms over breaches of trust. One such example preceded the signing of the accords in 2005 and their alteration in 2007, including the Anything But Conservatives (ABC) campaign orchestrated by Premier Williams, himself also of the Newfoundland Progressive Conservative party, against the re-election of Prime Minister Harper, leader of the federal Conservative Party, in the 2008 election. At the same time, this flexibility also provided the opportunity for bilateral agreements between Ottawa and the two Atlantic provinces regarding the equalization program, which itself is essentially a multilateral framework between Canada's 10 provinces and Ottawa. Such agreements elicited fierce criticism from the other provinces (Smith 2008) and created doubt about the potential of executive federalism as an effective mechanism for intergovernmental bargaining (Bickerton 2008), even though as Stevenson (2007) demonstrated, bilateral deals and the 'unequal' treatment of 'equals' is a core component of Canadian politics. The side deals between Ottawa and the two Atlantic provinces can be described as important additions to the path earlier established by the fiscal arrangements designed by the BNA Act

for the different provinces that originally formed Confederation in 1867, and which Nova Scotia's 'better term' deal with Ottawa in 1869 informally replicated.

Nigeria's mechanism of intergovernmental bargaining has also provided incentives for conflict mobilization. Unlike the executive federalism mechanism, one of the core features of the presidential system is its rigidity and resistance to change as a result of multiple veto points. There are two significant factors at play: one is the population of Nigeria's states transposed into the legislature, in which the northern states – a core part of the country's non-oil producing states – have a permanent majority. For instance, the states in the North have 182 representatives, compared to 152 for the states in the South in the House of Representatives (HoR), the second legislative chamber (Sagay 2002), out of which representatives from the main oil-producing states in the South-South geopolitical region or the Niger Delta are a negligible few. It is this structural design of the HoR that led Sagay (2002) to conclude that "it is clear that no bill can pass through the house without the concurrence of the northern states" (18). For instance, a bill proposed by Hon. Temi Harriman from Delta state, which sought to amend the 1969 Petroleum Act in order to reverse "the present situation where the Federal Government exercises excessive control over oil" and transfer the power to oil-producing states and local governments was 'killed' by members largely from states in the north, who cast 81 votes against the 64 in favour of the bill (Sagay 2002). Accordingly, the difficulty in reversing constitutional rules allocating authority over oil through the National Assembly, in which the oil-producing states are a minority, has not only added to the frustration of the Niger Delta people, but would have also contributed to shifting conflict away from intergovernmental channels to less formal ones in which conflict is more flammable and more difficult to regulate. The salience of intergroup conflict over oil in Nigeria, in addition to territorial conflicts, can be partly understood from the angle of this externalization of conflict.

The second incentive for conflict in Nigeria's dominant mechanism for intergovernmental bargaining is its interconnection with constitutional and institutional rules governing the control of oil. This further relates to the institutional design of modalities for changes to the revenue-sharing formula which has prevented any substantial reforms to the formula or its significant update since the return of democratic rule in 1999. This reality is partly a reflection of the federal government's entanglement in what, prior to the Aboyade Committee's 1977 recommendation that all federally-collected revenues be consolidated in the Federation Account, had been a revenue-sharing plan between states. Following the Aboyade Committee's report that replaced the DPA, which was used for horizontal revenue sharing with the Federation Account in which all important revenues are deposited with the federal government itself a beneficiary, the federal government became a self-interested party in the operation of the Account. With this development, the federal government, which controls oil and has ultimate control over the Federation Account and the entire revenue process, gained the opportunity to use its veto power to block changes that do not favour it. The fact that the revenue formula in use since 1999, which is itself

a modification of the 1982 Revenue Allocation Act, has not been changed radically can be explained in this way. Having inherited the military era revenue allocation, which significantly favours it, the federal governments since 1999 saw no reason why the revenue formula that benefits them should be changed.

The RMAFC's lack of independence is also another reason for the relative lack of reviews of the revenue-sharing formula. Having correctly interpreted the presidents' non-committal to a new revenue formula as a sign that they want the formula unchanged, the organization itself became unenthusiastic about such changes. Even though its members represent the 36 states and the federal capital territory, and even though it prides itself as an 'independent' agency, the RMAFC is, for all practical purposes, a federal government agency that is listed as part of the agencies under the 'presidency.' Thus, the president, rather than state governors, appoints state representatives to the Commission. Thus, state governors may not have control over those appointed by the president to represent states in the Commission. This also means that the states cannot influence or force the RMAFC to submit proposals to the president calling for reviews of the revenue formula. Since the impetus for the review of the revenue allocation formula comes from the federal government's executive agency, and not an independent body or from states or their representatives in the National Assembly, the presidents have been able to shield the formula they have inherited, and from which they benefit, from significant changes.

Generally, the absence of periodic reviews of the Nigerian revenue sharing formula has led to a yawning gap and question regarding whether the current revenue formula can effectively serve the needs of the country. The change in government from military rule to civilian rule made a new revenue formula desirable and urgent in order to accommodate the exigencies of democratic rule. In addition, there had been political and economic developments that required substantial changes to the formula in order to align it with new realities. Unfortunately, however, 17 years after the return to democratic rule, the revenue formula remained largely unchanged.

The Nigerian experience shows that institutional changes do not follow a linear path but are instead affected by institutional, political, and historical developments at particular times. Compared to the period under military rule, which was characterized by almost simultaneous critical junctures—military rule itself, civil war, and oil booms and busts—that relaxed the constraints on radical action as well as the absence of democratic vetoes such as the NASS and elected governors that would challenge political actors at the federal level, the post-1999 period has been relatively stable regarding changes to the revenue formula. Rather, small and incremental changes have taken place, engendered through the Supreme Court ruling of 2002, which nullified some sections of the revenue formulae, inherited from the previous regime and carried over to the return to democracy in 1999, and the executive orders in response to the Supreme Court ruling. Another important change was a response to the constitutional clarification, also through the 2002 Supreme Court ruling, over whether or not revenues from offshore

oil should be part of the derivation principle as stipulated by Section 162 of the 1999 constitution, which is the subject of the next chapter.

6.3.2. Ideational Basis of Resource Control and Intergovernmental Fiscal Transfers

Besides the formal constitutional division of powers (broadly speaking, decentralization in Canada and centralization in Nigeria) and specific designs of intergovernmental fiscal frameworks, the dominant idea about federalism itself in these federations also plays important roles in oil-related conflicts, as governments use them to justify particular vested interests in maintaining constitutional arrangements and models of power allocation. For instance, in while the country has historically straddled the delicate balance between the idea of shared rule and self-rule (Jinadu 2016, a confluence of critical junctures—the incursion of military rule into politics, federal government's victory in the civil war and large financial inflows during the oil boom—shifted the ideational discourse decisively in favor of shared rule. A major consequence of this was increasing centralization, and ideational discourse which projected the federal government as the only order of government that needed to be viable and best suited to carry out the tasks of nation-building and modernization while states did not need to meet a criterion of viability in order to be created. This was the argument of the 1975 Ayo-Irikife Commission on state reorganization, which was set up in the wake of the oil boom:

> Each state is not, and should not, be required to function as a self-contained or self-sufficient unit. In other words, the country as a whole constitutes a single economic system and so long as this system is viable the viability of the component units can be assured through the distributive actions of the Federal Government. Considerations of the overall economic viability of individual states [therefore] may not be critical to this exercise [of creating of states].

This philosophy behind the centralization of revenues by the military can also be gleaned from a report of one of the post-civil war revenue allocation committees established by the military:

> We believe that the fiscal arrangements in this country should reflect the new spirit of unity to which the country is dedicated…It is in the spirit of this newfound unity that we have viewed the resources of this country as the common funds of the country to be used for executing the kinds of program which can maintain this unity (Oyovbaire 1980, cited in Egwu 2005, 108).

This is the logic behind the emphasis on redistributive federalism in Nigeria, itself an offshoot of the political engineering by its successive military rulers to ensure national integration through fiscal centralism. This, in turn, meant the corresponding whittling down of the principle of derivation and the sub-national governments' tax revenues generating and retaining powers. The federal government, according to the 1999 Constitution, is vested with the powers to make laws concerning more lucrative taxes such as the petroleum profit tax, company tax, value added tax (VAT), mining rents and royalties, customs, and excise duties. These major taxes are collected by the federal government and paid into the Federation Account for disbursement between the federal and sub-national governments.

Consequently, the states and localities are left with personal income tax and other relatively unviable revenue sources such as vehicle licence fees, tenement rates, or poll/cattle tax (Nwolise 2005), some of whose costs of collection are more than the value of the taxes themselves.

This model of centralization was largely accepted during military rule, which also coincided with threats of secession as well as with the oil booms of the 1970s, which in many countries also provided justification for central macroeconomic management. Accordingly, and echoing the above argument of the government commission, the states that benefit most from redistribution and centralized resource control have supported such centralized control. They have claimed, erroneously in my opinion, that money generated from agricultural products in their regions propelled the development of the oil industry, and that they thus have the right to benefit from those resources through the centralized distribution of oil revenues (Arewa Consultative Forum 2014). This perception is different from that held by the Niger Delta governments and groups who reference the more favourable percentages in the 1950s and 1960s, from federalization in 1954 to the end of the First Republic in 1966, prior to the emergence of oil as the principal source of revenue. These governments and groups have used that historical memory to decry the current derivation formula as unfair and iniquitous, considering that their land not only produces the oil and gas that sustain the country's economy, but also that they bear the environmental and ecological devastation wrought by decades of oil exploration. This perception of injustice has been at the roots of some of the conflicts in the oil-producing region.

These tensions over ideas are framed in some ways for or against centralization. Those in favour of further increases of revenue to the producing areas use the ideational narrative of a 'return to true federalism,' meaning the federal arrangement prior to the military coup of 1966. However, because the federal government and the non-oil-bearing states (27 of the total 36) support centralization, there is a greater number in favour of centralization than of those opposed to it. The groups of states in support of centralization are not only numerically dominant but also politically powerful, belonging to majority groups. This is why contentions by oil-producing states in favour of fiscal decentralization, especially where the weight attributed to derivation would be at least 50%, as high as it was before oil became Nigeria's main resource, have been relatively unsuccessful.

In Canada, while the general pattern of constitutional allocation of power was more of a centralized one, with provinces submitting their previous powers over the then major source of revenues—customs duties and excise—which consequently generated vertical fiscal imbalance that necessitated aggressive demands by Nova Scotia for 'better terms,' which in turn kickstarted an informal type of equalization payments from the federal government to the provinces, the allocation of power over natural resources diverged from this general pattern. During the negotiations that led to Confederation, the forces that supported decentralization of power over natural resources were strong, and saw to it that the BNA Act

of 1867 would preserve the rights the provinces had held over land and natural resources prior to forming Confederation.

As Martin (1920) revealed, historically, the allocation of natural resources to the provinces was not a fortuitous one but was driven by and woven around the idea of provincial autonomy and self-determination. It could be argued that timing—the 'historical accident' that natural resources were insignificant sources of revenues at confederation, and particularly, the fact that oil which has evolved to become the most important natural resource was just emerging during that period—was the reason why the centralized federal arrangement eluded the natural resources policy field. Yet, this would be an oversimplification that gives little attention to the agency of the colonies that formed confederation and the political elites representing them. Indeed, it seemed unlikely that the federal government would have been able to wrestle the legislative and proprietary competence over oil from the provinces even if timing were different and favorable, given what Chester Martin (1920, 9) calls "the historical basis of provincial claims" over their public domain, especially the natural resources. As Martin noted, the struggle for the control and administration of these resources and enjoyment of the beneficial interests by the colonies that later formed confederation was for "long… the subject of one of the most interesting constitutional conflicts in [Canadian] history, until these rights were "unreservedly conceded to self-governing colonies upon their undertaking the duties of 'responsible government'" (Martin 1920, 9).[59] Thus, to these provinces, the natural resources and land served purposes of generating not just pecuniary and political benefits, but also, perhaps, the most poignant evidence of local autonomy and identity as well the control of local affairs that comes with responsible government. Having wrested the control of these resources from the British prior to confederation, it would have been politically

[59] Tracing this development, LaForest (1969) stated that even though these public properties were initially vested in the British Crown, and, later, the Imperial Parliament (LaForest 1969, 11-12), incremental reforms by the Imperial government across the colonies gave the local assemblies the rights to appropriate revenue from lands. Beginning in New Brunswick in 1837, rights over these revenues were surrendered to the colonial legislatures, to the charging of the colonial governor (La Forest 1969, 12). Similar law vesting control of revenues were enacted for Canada in 1840 but unlike New Brunswick, the law—Union Act—stipulated that the Queen should surrender not all but "threefifths of her territorial and other revenues arising in the province, and two fifths of such revenues during her life and five years, the whole to be payable into the consolidated revenue fund of the province" (LaForest 1969, 12-13). The law also stipulated the amount to be paid to colonial officials including governor, liuetenant governor, judges and other workers. The terms of this law was deemed not favorable by the Legislative Assembly of Canada which felt that the provision stipulating how much to be paid to colonial officials and the one which stipulated the ratio of revenues the Queen can surrender to the provinces "violated the principle that the colonial legislature should have the same control over territorial and casual revenues arising in the province as the Imperial Parliament exercised over like revenues arising within the United Kingdom" (LaForest 1969, 13). The provincial legislature therfore enacted its own legislation in 1846 which thereafter received royal assent, with the new law changing "the amounts payable to Her Majesty...and some of the salaries" (LaForest 1969, 13). Through a law enacted in 1849 (and modified through another act of 1852), Nova Scotia the fourth of the original colonies that formed federation, achieved similar concession regarding the control of revenues derived from provincial territories.

inexpedient for the Fathers of Confederation representing these colonies, some of whom were also looking forward to using these resources for province building, to simply hand over these resources to the new Dominion government at Confederation. In addition, with the control of these resources firmly within the colonies, the settler merchant class in these colonies, which may have also supported the political representatives in their struggle for responsible government and local resource control, would have been so heavily invested in continuing provincial control of these resources that they would pressure for a perpetuation of the British idea of local resource control at Confederation.

The control of lands and natural resources, therefore, embody or form a key plank of the bitter ideational and material conflict for responsible government by the British North America provinces before this right was won, with the right to revenues from Crown lands conceded, in the case of the Province of Canada, through the Act of Union of 1840, which provided that the colony would enjoy beneficial interest in return for a 'civil list' (Martin 1920). For instance, in the Province of Canada, the beneficial interest that the province would enjoy was to be achieved at the cost of £75,000 to the province (Martin 1920, 20).

The agency/influence of such domestic forces in the colonies, which would have served to deter the transfer of ownership and control rights over lands and resources to the Dominion government, was exemplified in Newfoundland. Even though Newfoundland did not participate in the Charlottetown Conference of 1864 where proposals for the establishment of a Confederation of British North American colonies was first discussed among these colonies, it was invited to the Quebec Conference later that year. At Quebec, the two Newfoundland delegates were impressed with what they thought were generous terms given to the province as condition for joining confederation. Even though one of these terms was the surrender of ungranted public lands, mines, and minerals to the General Government in return for a special subsidy of $150,000 per annum (Quebec Resolutions 1864), the representatives of Newfoundland were fascinated with the offer which they saw as a way to help the province, then struggling with a collapsing economy, to overcome its economic predicament. However, the condition that the province should surrender its lands, mines, and minerals became one of the rallying cries against Newfoundland's entrance into Confederation by anti-confederation groups, including the powerful merchants led by Charles Fox Bennett, himself a prominent St. John's merchant (Tattrie 2015).

Newfoundland had relied on this historical legacy to reject entrance into Confederation in the 1960s, with ownership and control of resources one of the rallying cries that Charles Fox Bennett, the leader of the anti-confederationists, himself an investor in mining, used to rally the people of Newfoundland in the 1869 election which was partially a referendum on confederation to reject confederation: "Let us keep our Lands, Mines and Minerals to Ourselves!! Let us keep our Revenue to Ourselves!!!" (*Morning Chronicle* [St. John's] September 28 1869, 1, reproduced by Library and Archives Canada 2001). Elsewhere, Bennett teased the idea that Newfoundland should submit its lands and minerals in return

for grants that those in support of the proposal, such as Frederic Carter, the leader of the Confederate party, claimed would help Newfoundland with the "Capital to work our mines and minerals" (Newfoundland and Labrador Heritage Web Site 2017), arguing that Confederation "would be the sacrifice of our independent legislation and the control of our own rich colonial resources for the benefit of that nationality which, so far as I can at present conceive, can confer but few and trifling benefits on us" (Newfoundland and Labrador Heritage Web Site 2017). He argued further:

> Is it no grievance that our population should be taxed thirty shillings a head ...and receive back four shillings a head only [?] There is no Colony…that has within itself greater sources of wealth than has this Colony in her extensive fisheries, her minerals, her lands, and even her timber. Are the people of Newfoundland insensible to these facts? Can they be so insensible to their own interests; to their ability in legislation and in finance, to permit their revenue ... to be sent out of this country to Canada, and to receive back four shillings only per head out of thirty, leaving twenty-six shillings per head ... to be expended in the making of the Canadian roads, canals, fortifications, to aid in the payment of her army and navy, her ships of war, and the interest of her immense debt? …What consideration is £37,500 Canadian depreciated currency, per annum, for all our lands, mines, minerals and other public property? ... (Newfoundland and Labrador Heritage Web Site 2017)

The Anti-Confederate Party won the election and their leader, Bennett, became Premier, thus scuttling Newfoundland's first major attempt to join Confederation. The case of Newfoundland demonstrated that, even though Confederation offered some attractive incentives such as the takeover of the existing colonies' debts and the construction of railways to facilitate trade, as well as the removal of other obstacles to trade such as the institution of preferential tariffs between the colonies, these 'incentives' would not automatically sway the provinces to make concessions to the Dominion government. This was especially true when these concessions amounted to a forfeiture of local autonomy and hence carried the most political costs, such as lands and resources.

To be sure, the public domains of the colonies were by far the lowest contributors to their governmental revenues at Confederation, and even after Confederation. This was due in part to the reluctance of provincial governments to utilize their powers to levy direct taxes, which they saw as capable of provoking a backlash amongst their people, who were not used to paying direct taxes as a result of the reliance of these colonies on customs excise and duties, which the colonies had relinquished to the Dominion government at Confederation (Hogg 1977; Stevenson 2007). Yet, even though it did not offer enormous immediate returns, the control of resources would not only serve as markers of provincial identity and autonomy won in the struggles for responsible government, and would offer protection to local merchants who have invested in natural resources exploitation (and who may also be strong political forces, as the case of Newfoundland demonstrated), but would also serve as veritable sources of patronage for provincial governments and guarantee immense wealth in the future. The Canadian Fathers of Confederation were not uninformed of these dynamics, some of which also apply to oil, which, unlike other resources, was just emerging when proposals for Confederation was being discussed in the

1860s, but which later became the greatest beneficiary of the constitutional rule vesting almost exclusive jurisdictional and beneficial rights over natural resources at Confederation.

Thus, although it could be argued that timing was a factor in the decision to vest natural resources (and in particular oil) in the provinces, the decisive factor was the strategic and ideational interest of the colonies who have "come-together" to form confederation. The evidence that the decision could have been influenced by the non-importance of oil at the time of Confederation could be gleaned from the fact that no mention was made of oil or petroleum in the Quebec Resolution that formed the BNA Act, or the BNA Act itself, even though other natural resources and minerals such as coal, timber, etc were given prominence and specific legislations made regarding these resources. Evidence that the decision was consciously taken and a reflection of material interests and ideas of self-determination of the colonies that later formed provinces of the new federation, on the other hand, can be seen in the statements of some of the Fathers of Confederation. For instance, in a speech delivered during the Confederation debates of the Legislature of the Province of Canada in February 1865, George Brown, justified his strong support for a federal union by referring to the potential benefit of Confederation in encouraging and allowing the provinces to control their mines and minerals and develop these for the benefit of their people as well as help Canada "occupy a position in the eyes of the world, and command a degree of respect and influence that we never can enjoy as separate provinces" (Province of Canada Legislature 1865, 98). Alexander Mackenzie spoke along this same line when he stated:

> And when we look to the vast territory we have in the North-West; when we know that the great rivers which flow through that territory, flow through immense beds of coal, and that the whole country is rich in mineral deposits of all kinds—petroleum, copper, gold and iron; that the land is teeming with resources of wealth calculated to build up an extensive and valuable commerce, and support a powerful nation. (Province of Canada Legislature 1865, 433)

In particular, there was also great anticipation of the future importance of oil during this period. Again, George Brown noted this prospect, while juxtaposing the potential role of oil in Canada's political economy to similar expectation in the US, whose president at the time spoke with excitement about the advantages that the US would gain from its recent discovery of oil:

> The President of the United States is said recently to have declared that the produce of the petroleum wells of the United States will in half a dozen years pay off the whole national debt of the republic. Well, we too have "struck oil," and every day brings us intelligence of fresh discoveries, and if the enormous debt of our neighbours may possibly be met by the oily stream, may we not hope that some material addition to our annual industrial revenue may flow from our petroleum regions? (Province of Canada Legislature 1865, 98)

Besides the potential role foreseen for oil and other natural resources in generating a shared outcome of wealth and power for a united Canada, there was also recognition of the importance of oil in shaping interprovincial political economy after Confederation, and bestowing autonomous spheres of action to

each province. Indeed, George Brown categorically stated that for those in Upper Canada (later Ontario), the Confederation scheme would help to remedy "another great evil in our existing system" of the Province of Canada: their lack of control over local decision making and, by implication, instruments of local patronage, since these patronages had been dispensed by those who were defeated at the polls, and hence were minority representatives in Upper Canada, but who "have been, year after year, kept in office by Lower Canada votes" (Province of Canada Legislature 1865, 94). According to Brown, Confederation would remedy this anomaly by securing for "the people of each province full control over the administration of their own internal affairs" (Province of Canada Legislature 1865, 94) and, of course, the patronage that emanates from such control:

> The local patronage will be under local control, and the wishes of the majority in each section will be carried out in all local matters.... Each province is to have control of its own crown lands, crown timber and crown minerals, and will be free to take such steps for developing them as each deems bes.t (Province of Canada Legislature 1865, 94)

The primary attraction of Confederation for Lower Canada or Canada East, soon to be Quebec, was the opportunity it provided for the affirmation of the cultural identification of both francophones and anglophones in areas such as social institutions, family, legal system, and education or cultural autonomy for French Canadians through ownership of their own legislature and government (Stevenson 1979, 38) thus moderating the "cultural conflicts that paralyzed the Province of Canada" (Stevenson 1979, 43). However, to prominent politicians in Upper Canada or Canada West (later Ontario), Confederation would serve as a timely means to put an end to an unworkable union with Lower Canada, and thus provide Upper Canada with self-government and the opportunity to develop economically at its own pace. In this interpretation, resource control was framed at once as the route to and demonstration of provincial autonomy. For these politicians, autonomy in this sense was perceived not really as autonomy from control by Britain, but autonomy to act without the usual veto from Lower Canada, a veto perceived to have prevented Upper Canada from taken actions beneficial to its elites and people and which has led to political deadlock (Province of Canada Legislature 1865). Paul Romney spoke of this general tension between Upper and Lower Canada when he noted, "what annoyed the reformers about the state of politics in 1864 was not relations between the colony and the empire but the union of Upper and Lower Canada, which they saw as denying Upper Canada the autonomy that ought to have flowed from responsible government. From this perspective, confederation appeared to realize the goal which the Reformers had adopted at their great convention of 1859: the establishment of Upper Canada as a self-governing polity within a larger federation" (Romney 1992, 12). It is against this background that Upper Canada Reformers such as George Brown, even though he was described as demonstrating "centralist fervor" during the confederation conferences in Charlottetown and Quebec (Romney 1992, 8), were also hopeful that provincial control of natural resources would guarantee autonomy for Upper Canada, as his speech presented above aptly demonstrated.

To be certain, ideas are not sacrosanct and are challenged from time to time. The experiences of the Prairie provinces—Manitoba, Alberta, And Saskatchewan—demonstrated tension over ideas and institutional arrangement. Unlike the other provinces that joined Confederation as largely self-governing colonies, the Prairie provinces were created through the process of devolution from the territory belonging to the federal government—Rupert's Land and the North-West Territories—and hence did not have the same rights to natural resources that other provinces had on entering the federation. Yet, over time, the campaigns of these provinces to control their resources were successful. At play in this success were contingent events such as increasing population, which pressured provincial politicians who had previously had preferred subsidies in lieu of withheld resources to become serious about resource control. Two central influences were the decentralist path earlier taken at Confederation before Alberta and the other prairie provinces joined the federal union, which proved decisive in acting as institutional memory, and the idea of self-rule over natural resources undergirding that institutional arrangement, which provided the discursive and legitimating framework that these provinces used to wring concessions over natural resources from Ottawa.

As natural resources, including but not restricted to oil, assumed importance, so did the powers of the provincial governments, which were assigned primary responsibility as 'owners' and managers of these resources. The actual use of the revenues from these resources generated increasing provincial support for decentralization. Against this background of powerful resource-related factors against the federal government's intrusion into this important area of primary provincial legislative competence, decentralization has become the dominant model of authority over oil in Canada, and this has minimized counter-claims from the federal government that otherwise might have become sources of conflict.

Even though, according to constitutional rule, the exercise of provincial power over natural resources was limited by the federal government's own powers over commerce and trade, the provinces took legal actions to curtail the federal government's use of the powers that had constrained their own exercise of constitutional power over lands and resources. Through several political battles and successful litigations or legal challenges to federal commerce and trade powers in such policy areas as agriculture and fishing instituted by the provinces led first by Ontario and then Quebec, the courts limited these federal government's powers (Armstrong 1981; Stevenson 2009) Having suffered legal setbacks in the expansive use of powers over commerce and trade, the federal government became reticent over the years to exercise these powers. This in turn led to the accretion of provincial powers in the natural resource field, and over time, to a firmer shift in the balance of power in favour of the provinces as revenues from natural resources, particularly oil, continued to increase.

To be sure, Canada does experience economic regionalism which has threatened to disrupt what can be described as an ideational consensus regarding provincial powers over natural resources, with the

manufacturing and financial industries concentrated in Ontario and Quebec, and the other provinces relying on natural resources such as "fishing and forestry in the Atlantic provinces and British Columbia, agriculture in the prairie provinces, and oil and gas mainly in Alberta but also in other provinces" (Simeon and Papillon 2006, 96) with the regional economic disparities that emerge from different provincial economic structures placing "fiscal 'equalization,' or sharing, high on the agenda" (Simeon and Papillon 2006, 96). For example, oil-producing provinces and non-oil-producing provinces dispute over whether or not to include renewable resources in the calculation of equalization payments, with oil-rich provinces such as Alberta advocating their removal while other provinces insist on their full inclusion. However, the diversity of regional economic bases and the control of the provinces over their own natural resources mean that while the provinces do compete against one another for larger shares of the equalization pie, such ambition does not undermine their vested interests to collaborate in order to strengthen their control of their resources and revenues. The provinces' protection of their economic resources has helped guarantee and sustain decentralization, thus minimizing horizontal conflicts over sharing of resource revenues. This is in contrast to the intergovernmental relations in Nigeria, where mineral resources are owned and controlled by the federal government and resource revenues are pooled for distribution among the state governments.

The accretion of provincial powers over natural resources was not without challenge. The energy crises of the 1970s provided an opportunity to interrupt or even reverse the increases in provincial constitutional powers and to reverse the ideational framework of self-rule that propelled it. With the sharp oil price increase following the international energy crises accruing to the Prairie provinces, the distortions to the equalization system became more pronounced. The federal government responded to this distortion by introducing an export tax "to generate funds to enable Ottawa to subsidize foreign oil imports entering eastern Canada…in order to maintain the uniform and lower domestic price for energy across the country" (Courchene 2007, 24).

Generally, Alberta and the Western provinces have seen the federal government's intervention as a confiscatory violation of the BNA Act vesting exclusive ownership of resources in provinces, a right that they had won in 1930; Alberta in particular has regarded the federal intervention as a cash grab. Meanwhile, the federal government justified its move with the ideational discourse of Canadian risk sharing and solidarity practice geared towards maintaining a robust federal community, a practice from which Alberta itself has benefited. As argued in the National Energy Program (NEP) document:

> The citizens of Canada and their national government, have played a major role in fostering the development of the oil and gas industry and deserve to share in its benefits. (Energy, Mines and Resources Canada 1980, 13-14)

This seems a fair argument on the surface. However, in opposing the federal government's decision, the governments of the major oil-producing provinces have relied not just of formal institutional

arrangement over oil but also the normative ideas that support them. As Premier Lougheed noted in response to NEP:

> The federal government persists in trying to talk about revenue sharing or split of take, or whatever phraseology it wants to use, ignoring the fact that that the province owns the resources. And it's not merely a matter of tax revenue flowing to provincial and federal governments. It is the ownership rights—the province owns an asset that is depleting—and Ottawa can't work it out the same way (Lougheed Interview in the Financial Post, December 1980, quoted in Pratt 1981, 162).

The conflict over federal design and ideas of federalism and federal community was underlaid by question over the material interests served by specific vision of federalism. For instance, because the Trudeau Liberals' political/electoral base was concentrated within the province that benefitted the most from redistribution of oil revenues (Tuohy 1992), and the resources from which they had a comparative advantage were spared federal intervention, the idea of shared rule that was used as legitimating frame for NEP was viewed as policy that benefited the specific provinces on which the federal government depended politically and hence did not receive widespread appeal, even though it was popular in the consuming provinces. What dealt a decisive blow to the idea of shared rule was a confluence of contingency reflected in the fall in oil prices as well as the victory of the Mulroney government, which later espoused free market as a safeguard against government intervention that worked in tandem with the idea of shared rule. But more importantly, with the oil price increase, which made shared rule attractive, clashes between the ideational and institutional layers (Lieberman 2002), in this case the decentralized institutional arrangement over oil and the idea of shared rule that was used to supplant the dominant idea of self-rule in the oil policy sphere, became intensified, with this incompatibility eventually leading to a shift back in favour of self-rule.

The conflict over whether or not to include renewable resources, particularly oil, in the calculation of provincial fiscal capacity for equalization and the percentage of these resources to include, as well as the conflict over offshore oil offsets, and the perceptions, sometimes erroneous, regarding these issues, including that oil-rich provinces, especially Alberta transfers money to have-not provinces, have the imprints of the tension between the endogenous federal ideas of shared rule and self-rule. However, the Canadian case also reveals the tension over the exogenous ideas of government intervention and the 'free market.' Ideas are time sensitive and, like institutions, change over time, even though the pace and nature of change and the redistribution conflict these changes induce depend on the coalition of actors in the defence and opposition of particular institutional and ideational frameworks. Historically embedded provincial constitutional powers over natural resources would seem to have not only generated a coalition of governmental actors in support of decentralization and the idea of self-rule that undergirds it, but the recurrent institutional-political practices of province building using natural resource revenues has also created provincial communities in support of a decentralist ideational and

institutional arrangement. Given this reality and the federal government's unspoken acknowledgement of primary provincial governments' leadership roles in the natural resource sector, especially following the bitter conflict generated by its intervention in this policy field during the energy crises of the 1970s-80s, it is very unlikely that a radical shift would take place in Canada's ideational basis of natural resource control. Even so, it is not clear how a prolonged oil price slump would affect the commitments of Alberta, the country's main oil-producing region, which has largely not been overtly critical of the equalization program as a result of the decentralist natural resource control arrangement that makes the province the primary beneficiary of its resources, to the idea of sharing that underlines the equalization program. Even though the "equalization program is financed from general federal tax revenues collected across the country" (Lecours and Béland 2010), a pervasive perception in resource-rich provinces, especially Alberta, is that they directly subsidize poor provinces. Prolonged oil price crashes or stagnancy may likely add to the grievances generated by the perceptions on the part of resource-rich provinces that they are being milked by others.

The different patterns of ideational constructs and perceptions of social cleavages have therefore contributed to conflict in these federations. I have discussed earlier how economic factors, specifically regional disparity in natural resource endowment, have, in varying degrees, intersected with institutional design to influence the ideational/normative commitment to and political expediency of using intergovernmental fiscal sharing for the accommodation of diversity in both Canada and Nigeria, as well as the role of the degree of reliance on oil in shaping distinctive conflict patterns. Yet, federations also manage social diversities and social cleavages such as ethnicity, language, and religion. While Canada and Nigeria are both multinational federations, they differ in the degrees of social cleavage they reconcile and the specific configuration of ethnic diversity around oil. The extent to which social diversity reinforces economic differences makes the direct mobilization and manipulation of ethnic identities, such as majority/minority relations, concerning oil more potent and politically divisive in Nigeria than in Canada, in part because in Canada, salient social cleavages, such as Quebec's status as an ethnic minority, are not directly tied to oil.

Nigeria's salient social cleavage structure, meanwhile, is intertwined with the geography of oil, with the oil-producing states being populated by ethnic minorities who feel dominated by the majority groups of the non-oil-producing states. Seen from this perspective, even though in both countries, ethnocultural cleavages generally are salient, but in Nigeria more so than in Canada (Colino and Moreno 2010), the coincidence or congruence of ethnocultural cleavages with the geographical location of oil in Nigeria provides a ground for direct and acute conflict that is not present in Canada. Accordingly, disagreements over sharing of oil revenues between producing and non-producing states are underscored in discursive terms relating to the advantages of ethnic majorities in non-oil-producing states or the marginalization of ethnic minorities in oil-producing states. As Osaghae (2015, 277) puts it:

> Perceptions of sectional domination continue to influence federal-state relations…[T]he Demands for greater control over oil and gas resources by the minorities' states of the Niger Delta are shaped by perceptions of the federal government as an instrument of oppression by the majority ethnic groups, especially the Hausa-Fulani of the North and the Yoruba of the South-West.

The following statement by Clifford Okilo, the first governor of oil-rich Rivers state, aligns with Osaghae's argument above:

> Derivation as a revenue allocation is not new in this country. It featured prominently when cocoa, groundnuts, etc, were the main sources of revenues for Nigeria. But it has continued to be deliberately suppressed since crude oil became the mainstay of the county's wealth...simply because the main contributors of the oil wealth are the minorities. (cited in Suberu 1996, 29)

Yet, in a sense, the military's policy choices that led to centralization were pragmatic responses to the threat to sovereignty and large regional population asymmetries that characterized the decentralized federal arrangement prior to 1966 when the military interfered in Nigeria's politics which eventually led to the breakdown of government (Osaghae 2015b; Suberu 2001). According to Suberu (2013, 84), the pre-1966 federal framework was far from a 'golden era' for Nigerian federalism, as it "distorted Nigeria's complex ethnic balance, fueled ethnic and regional polarization, destabilized a fledgling democratic republic, and set the stage for ethno-military infighting and secessionist warfare." The military's reforms in response to these political challenges, which replaced the then relatively balanced federal structural arrangement existing decentralist framework with an extensive centralized "structural configuration and institutional architecture" (Suberu 2013, 83) through such mechanisms as state creation and the centralization of revenues for redistribution to states, helped to solve some of these problems, but at a huge cost to the country's federalism.

To downplay the role of ethnicity in the natural resource (oil) revenue system in Canada is not to totally ignore its influence, but to say that in comparison to Nigeria, the degree to which the ethnic factor shapes intergovernmental fiscal transfers is minimal. This is because the desire to undermine the Quebec secessionist movement was central to the emergence of the Canadian equalization program, which has continued to play a role in ethnic management ever since (Béland and Lecours 2014). Yet, the fact that conflict between federal and provincial governments in which equalization has featured as conflict management, which has an ethnic nationality component such as Quebec's, is vented through the territorial framework of formal constitutional order shows the limited role of ethnicity in equalization in Canada. This can be compared to Nigeria, in which, in addition to political elites representing states, non-state actors in the Niger Delta have emerged as powerful stakeholders and have sometimes even displaced the political elites in their mobilization for larger shares of oil revenues.

The comparative experiences of Canada and Nigeria reveal that, overall, the different structures or natures of social diversity and its management, and the specific configurations and saliences of these

cultural identities with regard to the geography of oil, have played significant roles not just in the design of the intergovernmental fiscal transfer systems of both federations, but also in the restoration of the original balances of power as they existed at federalization. Though territorially concentrated ethnic identity is a minimal concern in Canada outside of Quebec, the need to accommodate Quebec's place in the Canadian federation has helped to sustain decentralization. With the overlap between ethnic diversity and geographical locations of oil in Nigeria, the accommodation of these differences has pushed the Nigerian federation toward greater centralization. For instance, the need to recognize various groups' identities has led to the proliferation of state formation, which in turn has led to the diminishing of state powers as compared to those of the federal government. The elevation of ethnic equality to the level of state equality, itself a problematic situation due to the ethnic heterogeneity present in many states, has led to the use of political rather than fiscal indices for the redistribution of revenues from the Federation Account, about four-fifths of which are derived from oil. While, ostensibly, this redistribution of centrally collected oil revenues was intended to devolve fiscal powers to constituent units, most of which were hastily created without consideration for their economic viability, this has in reality created what Suberu (2004, 32) calls "economic hyper centralization," in which over 80 percent of state revenues come from transfers from the federation account, and the federal government spends "more than half, and often up to two thirds, of total public expenditure." This situation has led some commentators, such as Anichukwu (2012), to describe Nigerian federalism as "feeding-bottle federalism" characterized by a master-servant relationship, or one in which "the Federal Government became the 'Big Daddy' who confiscates all that belongs to his children and doles out to all, the hard working and the indolent alike" (Anichukwu 2012). Third, centralization of fiscal powers has coincided with the political control of the central or federal government largely by political elites from non-oil-producing states, especially in the north. This has sustained the perception among the minority ethnic groups in whose territories most of Nigeria's oil is located that federal government reforms, such as the downgrading of the weight attached to derivation in favour of equality of states and population, were intended to benefit the majority ethnic groups in non-oil-producing states (Nannen 1995). This perception has raised the stakes of conflict over oil in Nigeria, and it has been used to justify militancy and insurgencies in the oil-bearing region, with some describing criminal activities such as oil theft and kidnapping for ransom as resource control through the backdoor (Oriola 2013).

6.4. Conclusion

This chapter demonstrates that both Canada and Nigeria have wrestled with the challenges of balancing the simultaneous need for self-rule and shared rule, particularly the imperative mitigating regional economic disparities and its threat to national unity, with oil revenues forming a major fulcrum of this delicate tradeoff. Both countries have used the federal institutional framework as a means of managing regional disparities of oil and gas resources, but the redistributive nature of the fiscal transfer systems

has provoked pressure, tension, and even conflict, leading to the questioning of both the federal institutional arrangement and the specific designs of the transfer systems. For instance, Maxime Bernier, the leading contender for the Conservative party's May 2017 leadership election, had promised that he would 'freeze' the equalization program if elected into power, describing it as "unfair and inefficient" and as analogous to a "badly designed welfare programs that used to discourage recipients from working" (Siekierski 2017). Reference to 'feeding bottle' federalism in Nigeria also touches on what is wrong with the country's fiscal intergovernmental framework.

Yet, there are divergences in the two countries' patterns of conflict and conflict management, with the scope of conflict more extensive and more pervasive, in general, in Nigeria than in Canada. This is not to ignore, however, that Canada has experienced periods of high tension and conflict that have diverged from the general trend, during times of minority governments and during the formal review of the equalization formula. These divergent outcomes are influenced by, and anchored on, the very different formal institutional characteristics of the federations and the distribution of power. Specifically, the divisions of policy responsibility and authority over fiscal transfer are central to an understanding of the various patterns of conflict in Canada and Nigeria. For example, although the treatment of oil revenues has provoked conflict in the fiscal transfer systems of both Canada and Nigeria, the centralization of oil revenues in Nigeria and the consequent redistribution of these federally-collected revenues to states has been a perpetual source of discontent in the oil- producing states, this discontent has been used to justify violence and criminal behaviour in these states. By contrast, Canada has largely avoided violent conflicts by constitutionally allocating power over oil to subnational units. Thus, even though Alberta has not received equalization for much of the time in which the equalization program has existed, and revenues collected from the province have been a significant part of funding for the program, opposition to the equalization program has been muted thanks to the province's exclusive rights to levy royalties over the oil industry. While the particular structural federal designs of the two federations are shaped by contextual social, economic, and political structures unique to their respective polities (the degree of dependence on oil and gas, the degree of ethnic heterogeneity, generally and specifically around oil, and the mechanisms of intergovernmental bargaining and negotiations either through executive federalism or executive-legislative channels), ultimately, these structural factors exogenous to federalism are themselves structured by federal institutional rules—formal design over oil and the ideas embodied in these rules—to produce distinct conflict processes.

In a way, Nigeria's inability to change its revenue system has shielded it from vertical conflict, while periodic review of the equalization program in Canada has provided the opportunity for recurrent conflict mobilization between provinces. Thus, as demonstrated by Lecours and Béland (2010), the equalization program has also gone through a period of intense conflict, particularly between 2004 and 2008, which, as they noted, seems to be a period of high-intensity conflict concerning the program,

drawing attention to the contingent dynamics of institutional change and conflict processes. However, the conflict during this period seems to be intertwined with the broader political struggles outside the design of the equalization structure, particularly the minority status of governments during this period, which increased the insertion of electoral considerations into the program. What was also at stake here was executive federalism, the dominant pattern through which intergovernmental bargains were reached, which during this period generated increased trust deficit between provincial and federal governments, even though, ultimately, the incentives and opportunities for conflict were structured by and through the federal institutional arena characterized by constitutionally divided powers and the ideas of shared rule and self-rule embodied in this formal institutional design.

CHAPTER 7

OFFSHORE OIL CONFLICT IN NIGERIA AND CANADA

7.1. Introduction

According to Peter Clancy (2007, 113), offshore oil should be treated as a 'sui generis' staple resource domain or industry that stands at the interface "between local, national and international forces." However, Clancy also admitted the continuing influence of onshore domain on the offshore domain when he stated that "realistically, of course, the offshore industry can never be detached completely from the land-based energy and hydrocarbon policies of sovereign states" (Clancy 2007, 114). The offshore oil policy field, therefore, is a complex one, and a fruitful scrutiny of the role of federal institutional arrangement in shaping its intriguing evolution and direction and the contestations between constitutional orders of government in a federation over its development, 'ownership,' management/control, and appropriation of revenues, can add great value to research on comparative federalism.

This chapter provides a comparison of offshore oil conflicts in Canada and Nigeria. According to Anderson (2010), while in most federations, "the boundaries of constituent units end at the low water mark (or the limit of the territorial sea) and the economic zone is under federal jurisdiction," contiguous provinces or states have typically laid claims to mineral resources in the offshore seabed with the aim of benefitting from the development of these resources and their revenues. This chapter explores the contestation between federal and littoral states as they try to assert jurisdiction over offshore oil resources in both federations. It highlights similarities between both countries' approaches to oil-related conflicts, as reflected in the judicial decisions that decided the constitutional legality of the claims and which affirmed the federal government's proprietary and legislative rights to most offshore resources and revenues, and in the political settlements between the federal and provincial/state governments. In these settlements, the federal government, and, by implication, the non-littoral units of each respective federation, conceded some rights to the littoral states. Such outcomes underscore commitments to what Heuglin and Ferna (2015) call the normative idea of social solidarity, the core characteristic of the federal principle.

The purposes of an empirical comparison of offshore oil conflict in Canada and Nigeria are threefold. First, the comparison provides a more insightful explanation of the role of federalism as a generic principle shared by all federations in conflict mobilization/claims and conflict resolution over offshore oil. State claims to shares in this legislative field, generally the exclusive property of the federal government, can be seen as representations of similar challenges with which the federal governments

of both Canada and Nigeria have been confronted. Explaining similar and different responses to this seemingly common challenge is useful in illuminating the dynamics of conflict processes in federations. Second, comparing each respective country's handling of oil conflict is an interesting point of entry into a greater comparative study of oil conflicts, which up to now has been largely unexplored. Third, this project demonstrates the value of studying institutions with explicit sensitivity to timing, sequence, and evolution of institutions—institutional emergence, change, and continuity—and the conflict that arises over these processes. For instance, studying the history of oil conflicts in these countries will help trace the influence of early institutional design on onshore and offshore oil-related conflicts. Clancy (2007, 113) notes that offshore oil "is a relative late arrival to the staple trade." Besides the challenges of developing technology to explore and exploit offshore oil, offshore jurisdictions were characterized by contentions between maritime countries, a situation that led to efforts to develop international rules and collaborations to regulate offshore jurisdictions and the use of offshore resources (Nyman 2014). Disagreements about the locations of maritime boundaries (Nyman 2014) affected claims over offshore resources, and this uncertainty led to contingencies on which actors representing the federal and state governments would capitalize in order to pursue the interests of their governments. Sensitivity to history will also help uncover the distinctive influence of the historical development of offshore oil as compared to onshore oil in both federations, and to examine the fit, or lack thereof, of the evolution of these two oil spheres on conflicts relating to oil production. In Canada, offshore oil was a new policy domain, as compared to onshore oil, which is considered part of other terrestrial natural resources, with the implication that institutional rules guiding offshore oil were absent in the BNA Act of 1867 (Caplan 1969). The onset of the importance of onshore oil before offshore oil introduces a peculiar conflict dynamic in Canada that is not present in Nigeria, where onshore and offshore oil were developed at roughly the same time. This study will explore the influence of these different historical legacies on treatment of offshore resources and revenues, and claims and counterclaims over these treatments between federal and constituent units in both federations.

The first section of this chapter summarizes the nexus between the offshore area, oil, and federalism. The next section provides a brief historical evolution of the development of offshore oil production. This is followed by case studies of disputes between federal governments and littoral states/provinces in both Canada and Nigeria, ending with an analytical discussion of the similarities and differences between each country's conflict dynamics.

7.2. The Offshore Domain, Oil and Federalism

One unique characteristic differentiates the offshore mineral resource sphere from its onshore counterpart. While it has been argued that oil conflict is different in federations than in unitary states (Anderson 2012), Cullen (1990) has argued that this distinctiveness of oil conflict in federations is even starker in relation to offshore oil. Compared to unitary states, in which "the absorption of international

law concepts concerning the offshore into municipal law has been relatively painless," at least in the twentieth century (Cullen 1990, 3), the adaptation of international offshore zoning rules to the municipal arena has not been as seamless in federations. This is largely due to the divisions of constitutional sovereignty in such polities, and as a result, "offshore debates have raged most fiercely" in federations (Cullen 1990, 3).

Table 9: Offshore Ownership, Management, and Revenue Assignment for Petroleum in 12 Federations

	Ownership	**Resource management**	**Resource revenue**
Argentina	Federal	Federal	Federal
Australia	Federal	Joint	Federal
Brazil	Federal	Federal	States/Federal/Municipal
Canada	Federal	Provinces/Joint	Provinces
India	Federal	Federal	Federal
Malaysia	Federal/Borneo states	Federal	Federal/ Borneo states
Mexico	Federal (nation)	Federal	Federal
Nigeria	Federal	Federal	Federal/States
Pakistan	Federal	Federal	Federal
Russia	Joint	Federal	Federal
United States	Federal	Federal	Federal
Venezuela	Federal	Federal	Federal

Source: Anderson (2012b, 379).

7.3. A Brief Overview of the International Evolution of Offshore Oil Rights

The conflict over offshore oil resources cannot be completely comprehended if it is not placed within the broader context of the evolution of the offshore domain in general. Unlike the onshore domain, which belongs to nation-states, the offshore domain "had long been subject to the freedom of-the-seas doctrine—a principle put forth in the seventeenth century essentially limiting national rights and jurisdiction over the oceans to a narrow belt of sea surrounding a nation's coastline. The remainder of the seas was proclaimed to be free to all and belonging to none" (United Nations 1998).[60]

[60] The doctrine of the "freedom of the seas" derives its inspiration from Hugo Grotius' 1609 publication *Mare Liberum,* which distinguished between exhaustible resources such as land, which must be owned

The need to protect fish stocks and major ocean and sea resources from excessive harvesting by coastal nations and "pollution and wastes from transport ships and oil tankers carrying noxious cargoes that plied sea routes across the globe" (United Nations 1998), as well as the growing tension generated by competing claims over the use of coastal water between coastal countries, and between coastal and non-coastal countries, inspired demands for changes to the laissez-faire "freedom of the seas" doctrine (Nyman 2014; United Nations 1998).

Available records indicate that in North America, a pioneering coastal water oil production venture was established in Summerfield, California in 1896, when industrialist Henry L. Williams, who had earlier "built his first rigs on dry land…, ventured offshore, constructing a 100-metre pier from which he began drilling on the sea floor" (World Ocean Review 2014, 10). During the early period of offshore exploration, a modest gain was achieved as the absence of sophisticated technology beyond that used for onshore drilling limited production so that "as recently as 1947 no company had ever risked drilling beyond the sight of land" (American Oil & Gas Historical Society 2006, 8).

As advanced technology made offshore drilling possible, the economic prospect of offshore oil began to generate more attention. An important turning point in the global development of the offshore domain was President Harry Truman's 1945 proclamation of US jurisdiction and control over "the natural resources of the subsoil and sea bed of the continental shelf beneath the high seas but contiguous to" its coasts (Truman 1945).

Between the 1940s and 1950s, other countries made unilateral decisions in response to the Truman Proclamation by staking their own claims over their coasts. Indeed, several Latin American countries,

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in order to be used; and resources such as the sea, which are not exhaustible, are common to all, and thus cannot be possessed by anyone (Parsons 1993). Grotius claimed that such inexhaustible resources as the sea are free for all to use and should not be appropriated for the exclusive use of any nation (Parsons 1993). It should be noted that Grotius' thesis was written against the background of claims and counter-claims by European powers for the exclusive use of specific oceans as routes for their trading companies. Grotius was specifically justifying the Dutch East India Company's seizure in 1602 of a Portuguese galleon or merchant ship in the Straits of Malacca. During this period, Spain and Portugal, then under a common sovereign, had claimed important oceans of the world including the Pacific Ocean, the Gulf of Mexico, the Atlantic, and the Indian Ocean and strove to ensure their exclusive navigation rights on these waters to the exclusion of other nations (Scott 1916). The seized galleon demonstrated the Dutch belief that Spain's and Portugal's sovereignty claims over the Indian Ocean violated the freedom of the sea principle, and in particular, their own right "to take part in the East Indian trade" (Scott 1916). Grotius' argument later provoked a counter-argument by the English lawyer John Selden, who asserted that, contrary to Grotius, "the sea, by the law of nature or nations, is not common to all men, but capable of private dominion or property as well as the land" and that "the King of Great Britain is lord of the sea flowing about, as an inseparable and perpetual appendant of the British Empire" (Scott 1916, ix). Seeing no difference between the sea and the land resources, which he argues are both finite, Selden advocated that Britain should claim sovereignty over its seas the same way it has imposed its sovereignty over its land territory, and shut out foreigners from using the waters on its shores for navigation or fishing.

such as Argentina, Chile, and Peru, were so emboldened by the proclamation that they replaced the existing informal three-mile limit with a new range of 200 miles over which they would exercise their sovereignty of their territorial waters, with other countries claiming complete ownership of the continental shelf (Parsons 1993, 226). These claims led to intensified efforts at establishing international regulations that would more clearly define the limits of offshore exploration; these efforts culminated in the United Nations Convention on the Law of the Seas (herein UNCLOS [1]). Although UNCLOS [1] did not set the standard breadth of territorial waters, it was assumed that this breadth should not be more than 12 miles, which was the breadth of the contiguous zone, even though countries such as Argentina, Brazil, Ecuador, El Salvador, Panama, and Uruguay still laid claim to territorial sea limits of up to a width of 200 miles (Beauchamp, Crommelin, and Thompson 1973). Indeed, following the Truman Proclamation, several claims were made regarding the continental shelf by four British colonies and thirteen Latin American Republic in the Western hemisphere; Philippines in the Far East; and by Pakistan, Saudi Arabia and nine sheikdoms under British protection in the Middle East (Beesley 1972a).

Generally, the rights of a coastal state over the continental shelf are more restricted than over the territorial sea. According to the Convention, a coastal state has "sovereignty" over its territorial sea unlike the continental shelf where it exercises "sovereign rights" and where even though such rights are exclusive, they are nevertheless restricted to the exploitation of the natural resources of the continental shelf's seabed (Beauchamp, Crommelin, and Thompson 1973, 433).

The Convention on the Continental Shelf, one of the agreements that emerged from UNCLOS [I], defined the continental shelf as: (a) the seabed and subsoil of the submarine areas adjacent to the coast line but outside the area of the territorial sea, to a depth of 200 metres or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resource of the said areas; (b) the seabed and subsoil of similar submarine areas adjacent to the coasts of islands (Beauchamp, Crommelin, and Thompson 1973, 434; United Nations 1958).

7.4. Current Offshore Regimes under International Law

The United Nations Convention on the Law of the Seas 1982 (UNCLOS III), which came into force in 1994, contained the then-current international laws governing the jurisdiction of coastal states in maritime zones and superseded the UNCLOS [I] mentioned above. The various maritime zones recognized by these international laws are listed below.

The Baseline

Before discussing the five maritime zones recognised under UNCLOS, it is useful to define the baseline: the line from which the breadth of the territorial seas, and by extension, other maritime zones, are measured. It is generally the low water mark for most coastal states (UNCLOS article 5). This rule may

not always apply, based on variations in the formation of coastlines. States with significant indentations or bays or islands adjacent to the coastline of the mainland have successfully argued for alternative methods of establishing the baseline. *The Fisheries Case [1951] ICJ Rep 166* between the United Kingdom and Norway recognized that the practical realities around a particular coastline could justify using a notional straight line instead of the actual curves of the coast. This principle is codified in UNCLOS article 7.

Internal Waters

Water bodies lying from the baseline inward towards the land territory of a coastal state are regarded as internal waters of the state (UNCLOS article 8, Currie et al. 2014).

A coastal state is entitled to complete and uninhibited sovereignty over resources and persons within this zone in the same manner as it exercises authority over its land territory. The view has, however, been expressed that such sovereignty will be subject to some limitation where a state re-determines its baseline in a manner that has the effect of annexing areas within its internal waters that were previously territorial sea (Currie et al. 400).

Territorial Sea

The territorial sea refers to that maritime zone lying seaward up to a distance of 12 nautical miles measured from the baseline (see UNCLOS article 3). There are special rules limiting the extent of a coastal state's claim to territorial sea where such a claim may overlap with another coastal state's claim (see UNCLOS article 15).

A coastal state has sovereign control over its territorial sea, but this right is subject to the limitation that it allows innocent passage to all ships carrying the flags of other states (see UNCLOS article 17).

Contiguous Zone

The Contiguous Zone refers to that area which is contiguous to the territorial sea of a coastal state and measuring up to 24 nautical miles when measured from the baseline (UNCLOS article 33, Oceans Act Canada s.10). A coastal state is entitled to exercise control in this zone in order to prevent or punish the infringement of its custom, fiscal, immigration or sanitary laws on its territory or territorial sea. This power is a creation of the UNCLOS; customary international law did not confer such powers on coastal states (Currie et al. 2014, 423).

Exclusive Economic Zone

The Exclusive Economic Zone is an area measuring not more than 200 nautical miles from the baseline (UNCLOS s.57). Originating in the notion of a fisheries zone where coastal states had preferential fishing

rights, it was defined by UNCLOS as an area in which a coastal state enjoys sovereign rights to explore, exploit, manage and obligation to conserve living and non-living natural resources on the seabed and subsoil as well as their super-adjacent waters (Currie et al. 2014, 438). The coastal state also enjoys the exclusive right to install and control the installation of artificial islands or other structures and to establish safety zones around these areas (UNCLOS article 60).

The coastal states' rights do not restrict the rights of every other state to navigate, fly over, and lay submarine cables and pipes in this area (UNCLOS article 58; Higdon 2013, 48)

Continental Shelf

The continental shelf is closely connected to the Exclusive Economic Zone ("EEZ"), but focuses on the seabed and subsoil.

Article 76(1) of UNCLOS defines the continental shelf as follows:

> The continental shelf of a coastal State comprises the seabed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance.

The continental shelf of a coastal state, therefore, (i) extends up to 200 nautical miles from the baseline where the natural prolongation of its continental margin does not extend up to that distance; or, (ii) extends beyond 200 nautical miles where the natural prolongation of its continental margin exceeds that distance subject to an absolute limit of not exceed 350 nautical miles from the baselines from which the breadth of the territorial sea is measured or 100 nautical miles from the 2,500 metre isobaths. The 2500 metres isobaths is a line connecting the depth of 2,500 metres.[61]

s.17(1) of Canada's Ocean Act defines the continental shelf as follows:

> The continental shelf of Canada is the seabed and subsoil of the submarine areas, including those of the exclusive economic zone of Canada, that extend beyond the territorial sea of Canada throughout the natural prolongation of the land territory of Canada…to a distance of 200 nautical miles from the baselines of the territorial sea of Canada where the outer edge of the continental margin does not extend up to that distance; or in respect of a portion of the continental shelf of Canada for which geographical coordinates of points have been prescribed…, to lines determined from the geographical coordinates of points so prescribed.

[61] For an elucidation on this absolute limit, see Higdon (2013, 52).

Pursuant to article 77 of UNCLOS, a coastal state is entitled to exercise sovereign rights over the continental shelf for the purpose of exploring it and its natural resources. These rights are exclusive to the coastal state and, unlike the EEZ, do not depend on occupation or on any express proclamation. Canada claims these rights to explore and exploit mineral and other non-living natural resources, as well as organisms which in their harvestable stage are immobile on or under the seabed or subsoil of the continental shelf, or are only mobile when in constant contact with the seabed or subsoil of the continental shelf (Oceans Act s.18).

High Seas

The portions of the seas beyond the territorial waters, contiguous zone, and exclusive economic zone of any coastal state constitute the high seas. Areas of the seabed and subsoil beyond the continental shelf constitute the deep seabed (UNCLOS article 86).

No state is permitted to claim sovereignty over the high seas, although a state is entitled to engage in hot pursuit of a vessel suspected to have breached its laws. Every state is entitled to share in the freedom of the high seas, which includes the freedom to navigate, fly over, conduct research, install structures, and exploit the resources of the high seas (UNCLOS article 87). Obligations are imposed on states in their use of the high seas, such as the obligation to keep the use of high seas peaceful, to exercise jurisdiction and control over ships flying their flags, and cooperate in the suppression of piracy (UNCLOS articles 88, 94, and 100).

7.5. Historical Overview and Evolution of Offshore Oil Conflict in Canada

Following the Truman Proclamation of 1945, Canada and Newfoundland attempted to adopt similar policies in order to evade possible shifts of fishing efforts from the United States and Latin America coasts toward their own coasts, but these attempts were discouraged by Britain (Parsons 1993, 225). Subsequently, besides a reluctant participation in a US-led effort to establish a fisheries conservation convention for the Northwest Atlantic, Canada did not adopt its own law regarding the continental shelf before the 1958 UNCLOS 1, beyond a verbal declaration by the Prime Minister that Canada favoured the 12-mile territorial sea limit, in spite of pressures from the United Fishermen and Allied Workers Union for a 9-mile, and later 12-mile, territorial sea limit in order to protect Canadian fishing rights (Parsons 1993, 226). It was not until 1964 that Canada enacted legislation asserting "the kind of jurisdiction necessary to extend fisheries" (Beesley 1972a, 33) through the establishment of a 9-mile exclusive fishing zone adjacent to its pre-existing 3-mile territorial sea which eventually brought the limit of its territorial sea to 12 miles (Beesley 1972b).

Thus, at this time, the main focus of offshore rights was not drilling for oil, but fishing. The dominant state practices in offshore waters, for several years, were fishing and mining, such as coal mining

through tunneling from the coast under the sea in Nova Scotia and Vancouver (Suarez 2008; Beesley 1972a). To reiterate, Canada failed to react to the Truman Proclamation (International Court of Justice 1984) and hence it did not take the unilateral steps that some other countries took to define the extent of their continental shelves in order to claim sovereignty or explore and exploit oil in the continental shelf following the Truman Proclamation even though it made effort, without success, to change the size of the territorial sea to encourage fishing (Parson 1993). Richard Starr, for example, noted how the Diefenbaker federal government which had, on April 29 1958, signed the 1958 Geneva Convention on the Continental Shelf did not assert the federal government's control over offshore minerals, suggesting that this could be due to that government's intention not to unravel the already established constitutional allocation of ownership and control power of oil policy under the provinces (Starr 2011, 84).

With international attention drawn to the offshore as a result of the Truman Proclamation, and with progressive advancement made in technology for offshore drilling, this began to change. The provinces were the first to stake their interests in the offshore domain, based on their jurisdictional authority to legislate over lands and resources and, by implication, onshore resources within their boundaries. The provincial governments acted on the federal government's failure to extend Canada's coastal boundary following the Truman Proclamation or enact domestic legislation over the offshore domain; beginning in the late 1940s, they extended the legislative authority afforded them by the Constitution Act, 1867 over onshore oil to offshore oil.[62] British Columbia took the lead in this regard when it granted exploratory permits to oil companies in 1949 (Caplan 1969).[63] Nova Scotia followed the lead by laying its claim to offshore minerals and granting a license to Mobil Oil Canada to explore Sable Island in 1959 (Canada-Nova Scotia Offshore Petroleum Board n.d.; Blake 2015). The federal government granted its own permits for offshore oil exploration in 1960, and reinforced this step in 1961 with the promulgation of the Canada Oil and Gas Land Regulations (Caplan 1969; Gault 1985; Blake 2015).

[62] It should be pointed out that offshore exploration had taken place before the Truman Proclamation. What is considered in some circles to be Canada's first offshore well was drilled in 1913 in Lake Erie, under the Canadian waters of the Great Lakes (Newton 1964); however, due to the rudimentary techniques used in the operation, the wells drilled in Ontario were not offshore wells in the true sense, even though they appeared so when they were discovered, as they were found in Canada's inland water (Schempf 2004) rather than in the territorial sea or continental shelf. Another offshore precedent, though also not in the continental shelf (Gault 1985), was the Hillsborough No. 1 well drilled in Charlottetown Harbour in 1944. This well was described by Natural Resources Canada as not just Canada's but "the world's first offshore well" (Natural Resources Canada 2016). It was drilled in Prince Edward Island in 1943 by Mobil (then known as Socony Vacuum). After consuming $1.5 million, the 14,696-foot well, which took 25 months to drill, went dry and had to be abandoned (Nielsen 2012, 123) in 1945. It would be another 47 years before Canada produced its first commercial quantity of offshore oil, from the Cohasset-Panuke project off Nova Scotia in 1992 (Clarke 2012).

[63] The order by the British Columbia cabinet proclaiming provincial jurisdiction over the Pacific continental shelf came much more significant in December 1966 (Ottawa Journal 1967, 1).

Indeed, given Canada's extensive coastline,[64] it was not surprising that the premiers of all the coastal provinces, having noticed the activity off the coast of British Columbia in the early 1960s, had claimed provincial rights to offshore minerals (Blake 2015). For instance, Manitoba, Ontario, and Quebec were also claiming rights at this time to offshore minerals in Hudson Bay. Manitoba argued that its border should be extended into Hudson Bay, which would give it rights to mineral resources under the bay. With this border extension, what the province was requesting was that "the same principles be applied to waters in Hudson's Bay as are applied in the Great Lakes where provincial boundaries extend into the lakes" (McDonald 1965, 2). Quebec was also claiming offshore minerals in the Gulf of St. Lawrence.

In the initial claims presented on their behalf by Nova Scotia Premier Robert Stanfield, at the October 1964 First Ministers' Conference, the four Atlantic provinces argued "that the proprietary rights in minerals contained in submarine lands belonged to the provinces where those submarine lands are contiguous to a province," and expressed surprise that "any question should be raised as to the ownership of such mineral rights" at all (Privy Council Office 1964 16). In supporting their argument that their claim was unassailable, the Atlantic provinces cited not just legal and economic justifications but also historical justifications, particularly pre-Confederation jurisdictional rights over offshore minerals. According to Premier Stanfield, "the boundaries of the several Atlantic Provinces extended beyond the land mass of the Provinces," citing coal mining activities in Nova Scotia's "mines which extended seaward miles beyond high water mark" and iron ore mining in Newfoundland that took place in submarine areas (Privy Council Office 1968, 17). Consequently, the Atlantic provinces asserted that "the mineral rights, including those in submarine areas, were undoubtedly vested in those Provinces at the time they entered into Confederation and, to a degree at least, were then being exploited. The Atlantic Provinces certainly exercised jurisdiction over contiguous marine and submarine areas before they respectively entered into Confederation with the other Provinces of Canada" (Privy Council Office 1968, 17). The premiers of the Atlantic provinces ended their assertions by presenting a proposal of delineated interprovincial boundaries as a sign that they were in agreement on this issue, an agreement they regarded as the major step to be taken before inviting the federal government to recognize these boundaries as the basis for each province's claims over offshore resources adjoining each province. They asked Prime Minister Pearson to give effect to the boundaries (Privy Council Office 1968). In drawing these boundaries, the provinces based their actions on Section 3 of the British North America Act, 1871, which predicated acceptable boundary delineations on agreement between the concerned provinces, with a request to Prime Minister Pearson to give effect to their proposal by legally defining the maritime boundaries (Privy Council Office 1968). However, in an exchange with Newfoundland Premier Joe

[64] According to Beesley (1972b), as a coastal state, "Canada has a huge continental shelf comprising an area amounting to almost 40 per cent of its land-mass. It is considered to be the second largest continental shelf in the world, exceeded only by that of the USSR, and is said to comprise approximately two million square miles" (28-29).

Smallwood, Prime Minister Pearson later rejected the provinces' proposal, arguing that the provinces could not unilaterally carry out boundary delineations without the federal government's approval, even though Smallwood insisted that what the Atlantic provinces presented was a proposal and not legally binding (Lauterpacht et al. 2006, 468-69). However, in hopes of avoiding a political battle with the premiers, in April 1965, Prime Minister Pearson approached the Supreme Court for its interpretation of which orders of government had proprietary rights and legislative jurisdiction over the territorial sea and continental shelf adjacent to the coast of British Columbia (Blake 2015; Russell 1987).

In November 1967, the Supreme Court unanimously ruled in favour of the federal government in the British Columbia case. Though the Supreme Court justices admitted that British Columbia had joined the federation in 1871 with ownership and control rights over mineral resources, and had maintained those resources since joining the federation, they nevertheless disagreed that the territorial sea was within its boundary when it joined Canada. The Supreme Court argued that Canada, rather than British Columbia, had exclusive rights over the mineral resources of the land underlying the territorial sea and continental shelf. This decision was based on the international law that vested sovereign rights over the exploration and exploitation of the seabeds of the continental shelf in the federal government, as well as the residual powers granted by the Constitution Act, 1867 to the federal government to uphold "the peace, order, and good government of Canada" (Caplan 1968). The Supreme Court conceded that British Columbia had some rights over the territorial sea, but concluded that this was not enough to guarantee it ownership and jurisdiction over resources in the territorial sea.

With the authoritative legal decision in the federal government's favour strengthening its position, Pierre Trudeau (who had replaced Pearson as Prime Minister) was confident in his ability to negotiate with the provinces, believing that the principles upheld in the British Columbia reference "appear to be substantially applicable to the east coast as well as to the west coast" (Trudeau 1968), and such an application would dispel further provincial claims to offshore resources. In a speech in the House of Commons in 1968, Prime Minister Trudeau proceeded to establish lines that would serve as the basis for mineral resource administration between the federal government and the coastal provinces. In the prime minister's proposal, though all offshore areas were under the federal government's jurisdiction as declared by the Supreme Court, the federal government would concede the administration of the landward side and the revenues therein to the coastal provinces, but would retain administration of the offshore mineral rights seaward from the mineral administration lines drawn. The revenues from the offshore areas administered by the federal government would be kept in a national pool, out of which half of the revenues would be kept by Canada, and the other half would be shared by all the coastal provinces through a formula agreed upon by these provinces' governments (Trudeau 1968). However, the expectation that the Atlantic provinces would abandon their claims did not materialize, as these provinces and Quebec set up a committee made up of their Ministers of Mines or Natural Resources—the

Joint Mineral Resources Committee (JMRC)—to agree on interprovincial boundary delineation coordinates (Lauterpacht et al. 2006).

Even though the courts had affirmed the federal government's exclusive jurisdiction over offshore mineral rights in the British Columbia case, Prime Minister Trudeau was aware that its constitutional position was still open to challenge in spite of its legal dominance after that case (Clancy 2007), even though, as noted above, he had hoped that the British Columbia Reference would automatically apply to the East Coast provinces, and that this would dissuade them from making claims of jurisdiction. Cognizant of this fact, Prime Minister Trudeau set out to negotiate with the East Coast provinces (Clancy 2007) rather than endure another round of litigation with all its uncertainties. However, in order to fortify the federal government's position in the negotiations, Trudeau felt that the terms of the negotiation would have to be set by the federal government, the British Columbia reference having given it the legitimacy to take this lead. Thus, in 1971, the federal government decided to adjust the 50:50 percent revenue sharing formula proposed in 1968 to one that was more in favour of the coastal provinces, by proposing a 30-percent share for the federal government while the province in which the development takes place would receive 50 percent, with the remaining 20 percent shared by Nova Scotia, New Brunswick, Prince Edward Island, and Newfoundland (Crosbie 2003). The federal government threatened to take the questions of ownership and jurisdiction to the Supreme Court in July 1972, and in August of the same year, Prime Minister Trudeau and the Premiers of the East Coast agreed to moot the question of ownership and jurisdiction in order to concentrate on the issue of revenue sharing and administration (Crosbie 2003).

By changing the formula he earlier proposed to the House of Commons in 1968, Trudeau set out the terms for a political settlement that he hoped would lead to joint management (with decision-making veto vested in the federal government) and revenue sharing between the federal government and the Atlantic provinces. However, in 1973, the negotiation faltered as the federal government was not willing to share decision-making authority over offshore mineral rights equally with the coastal provinces. The federal government insisted that it was better positioned to administer offshore rights because the offshore zone poses challenges that require responsibilities and functions that must necessarily be of national character if best practices are to be achieved in areas such as management, policies, criminal and civil law, conservation practices, and state-state diplomacy (Crosbie 2003). However, negotiations continued, with the federal government offering the Maritime Provinces 75 percent of the net offshore mineral resource revenues seaward of federal-provincial demarcation lines, while these provinces would receive 100 percent of the revenues landward of these lines (Crosbie 2003, 260). This new revenue-sharing offer, in addition to the proposal of "a new regime for joint administration and management of mineral resources offshore the Maritime provinces," formed the Statement of Principles that the federal government signed in a Memorandum of Understanding ("MOU") with Nova Scotia, New Brunswick, and

Prince Edward Island in February 1977 (Crosbie 2003, 260). However, the plan for a broad intergovernmental agreement with the East Coast provinces leading to joint management did not completely come to fruition, as Newfoundland and Quebec opted out of the agreement. But even the 1977 Memorandum of Understanding could not be sustained, as it completely collapsed before its implementation when Nova Scotia withdrew from it following the election of John Buchanan as premier in 1978 (Blake 2015; Starr 2011).

Newfoundland's objection to the agreement was that it shelved the issue of ownership and concentrated only on "petroleum revenue sharing and established a single administrative and regulatory regime for exploration and production" (Clancy 2011, 2) dominated by the federal government (Blake 2015). Newfoundland preferred instead to retain complete ownership, control, and total offshore revenue rights, rather than the joint or regional offshore arrangement to which Prime Minister Trudeau and the Maritime provinces had agreed. While the federal government offered 75 percent of offshore revenues to the Maritime provinces, Newfoundland argued that these regions were being shortchanged, as the revenues would be from only resource royalties, while the federal government retained other important components of offshore revenues, such as the corporate income tax and Petro-Canada's 25-percent stake, for itself (Blake 2015).

Newfoundland outlined its vision of offshore development in a draft regulation paper, the Petroleum and Natural Gas Act of 1977 (enacted in 1978), which affirmed the provincial government's right to ownership and control, and proposed sharing 75 percent of all offshore revenues with Ottawa, threatening to approach the court if its demands were rejected by the federal government (Blake 2015). The province claimed that its take from the arrangement in the proposed provincial law was $35 billion, compared to $10 billion under the joint arrangement that the Maritime provinces had with the federal government (Blake 2015).

Meanwhile, a new Premier was elected in Nova Scotia, replacing Gerald Regan of the Liberal Party, who signed the agreement between the Maritime provinces and the federal government. The new Conservative Party government of John Buchanan, which came to power in 1978, decried the agreement entered into by his successor as a sellout, and withdrew the province from further participation, calling for a renegotiation of the offshore question as part of a constitutional review (Crosbie 2003; Starr 2011). Following Nova Scotia's withdrawal from the agreement, Premier Buchanan also enacted some "strong ownership and regulatory measures" (Clancy 2011, 116) to back up its claim as Newfoundland had already done. Nova Scotia had omitted offshore oil in an earlier policy paper on minerals, but following the 1979 discovery of the Venture gas field, it produced a Petroleum Resource Act in 1980, modelled on the Newfoundland legislation. In this Act, Nova Scotia claimed ownership of offshore resources and gave the provincial cabinet regulatory power over the industry (Starr 2011, 123). Another policy document, "Offshore Oil and Gas: A Chance for Nova Scotians," followed, in which the provincial government

outlined more explicit details of control and revenues of offshore oil in areas such as royalties, participation rates, jobs, and the environment (Starr 2011, 123).

However, while the Atlantic provinces all sought to benefit from their offshore resources, particularly oil, their priorities with regard to offshore oil were different (Clancy 2011). For example, Newfoundland refused to participate in the agreement with the federal government, while Nova Scotia withdrew; soon after the passing of the Petroleum Resource Act, Premier Buchanan toned down his claims of ownership and focused more on control and revenues (Starr 2011). Buchanan's gambit to withdraw from the Maritime Accord seemed to have paid off with the election in May 1979 of Joe Clark, the federal Conservative leader, as Prime Minister, who consequently promised Newfoundland and Nova Scotia that the federal government would recognize provincial ownership and jurisdictional control of mineral resources off their shores (Starr 2011). However, this prospect did not endure, as the Joe Clark minority government's budget proposal to raise the federal excise tax by four percent was defeated in a parliamentary vote in December 1979. Clark's government was defeated in the February 1980 election, thus ending his promise to the premiers of the coastal provinces, as his successor Trudeau was not interested in honouring his commitment to Nova Scotia and Newfoundland (Blake 2015). The election of a prime minister who insisted that the coastal provinces were not legally entitled to offshore mineral rights meant that Nova Scotia was more concerned with the immediate impact of the excise tax than with offshore rights, as offshore mineral exploration had stalled during this period (Starr 2011).

Unlike Nova Scotia, however, Newfoundland's premiers were able to utilize the post-confederation grievances of the provinces to keep alive the people's nationalist sentiments in support of offshore claims. These sentiments included deep frustration over the Churchill hydro project deal, which many believed was rigged in favour of Quebec against Newfoundland, and the perception that the federal government was not interested in helping to revisit the deal in order to resolve it in the province's favour (Peckford 2013). One of the premiers who was an important player in the offshore conflict was Brian Peckford, who came to power in 1979 following the resignation of Frank Moores, and was premier from 1979 to 1989. His succession as premier coincided with the discovery of the Hibernia oil field. Against the background of perceived economic grievances and the province's failing economy, Peckford regarded offshore oil as the linchpin of economic growth and job creation in Newfoundland, as well as a step away from reliance on federal transfers. The Peckford administration made total resource control its key plank.

Newfoundland's precarious economic situation was worsened by the recession of the 1980s, and the Peckford government portrayed offshore resource rights as a sort of 'magic wand' that would reverse the province's economic status. This situation, in conjunction with what it considered its unique historical and political constitutional development that made its case more persuasive as compared to the three other Maritime provinces, partly explains why Peckford was intransigent and refused to agree

to the Nova Scotia-type deal with the federal government, which it considered as a giveaway. For instance, Peckford pointed out the "very poor financial position of the province" (Peckford 2013, 120), stating that without "the money to do things," the province resorted to "cutting corners everywhere, except in health and education and the spending on new hospitals and schools like all capital work was borrowed money" (2013, 120). Peckford's conclusion was that "there was never enough money even for reasonable, vital things, and often there was no money at all" (2013, 120-21).

It was against this background that offshore oil was seen as Newfoundland's economic salvation (Peckford 2013). With the prospect of offshore resource development, the province was believed to be "on the threshold of having perhaps one last chance to make it or break it" (Peckford 2013, 131-32). However, Peckford realized that for the offshore promise to be realized, a "strong provincial position" and a leader that could strongly assert its jurisdictional claims were necessary. Accordingly, Peckford made offshore oil resources the main issue in his campaign in the election he called after replacing Frank Moores as Newfoundland's premier and Progressive Conservative Party leader.

As had happened in Nova Scotia, the defeat of Joe Clark heightened apprehension that Peckford's desire to assert rights to Newfoundland's offshore resources and revenues would remain a dream (Blake 2015). With Trudeau returned to power at a time of increasing oil prices as a result of the Iranian political crisis of 1979 and the Iran-Iraq war of 1980, hope dwindled that Prime Minister Trudeau would significantly shift from the position he once held on the offshore issue.

The 1980 Federal-Provincial Conference of First Ministers provided the context for the provinces to openly confront Prime Minister Trudeau on the offshore issue, and for these provinces to restate their positions. Prime Minister Trudeau outlined the federal government's position as follows:

> The exclusive jurisdiction of the federal government over the offshore is clear. It is clear according to international law and under Canadian law. Canada owns the territorial sea which exists out to 12-mile limit, and that means that the federal government now has exclusive jurisdiction over laws in that 12 miles of the sea. Beyond the 12-miles limit the government of Canada under the same international law...has exclusive legislative jurisdiction over the mineral resources of the continental shelf when the resources are within the 200-mile limit. (Federal-Provincial Conference of First Ministers on the Constitution 1980, 364)

Prime Minister Trudeau argued that, while the federal government's exclusive jurisdiction over ownership was settled and would be affirmed by the Supreme Court as was the case with the British Columbia reference, the federal government is nevertheless prepared to suspend such recourse to judicial interpretations in favour of a political solution that would allow coastal provinces to be the major beneficiaries of offshore oil development such that they would "receive the same kind of revenues as are derived by provinces for their onshore resources" (Federal-Provincial Conference of First Ministers on the Constitution 1980, 365). However, his proposal came with a caveat as to how long these provinces

would continue to benefit from revenues derived from development of resources off their shores. According to him, those benefits would not continue forever, but would cease when these provinces became 'have' provinces under the equalization program (Federal-Provincial Conference of First Ministers on the Constitution 1980, 365). After this period, the offshore revenues would no longer go to the coastal states, but would instead be directed to the federal government, which would use these revenues for all Canadians, including the coastal states. The prime minister argued that his proposal was consistent with the federal government's vision of Canada as a political community in which all burdens and risks are shared: "We believe that when a province grows wealthy enough to stand on its own feet then it should begin to share its wealth with the rest of the country. That is the vision of Canada we are offering to Canadians, one where we will all grow strong by helping each other" (Federal-Provincial Conference of First Ministers on the Constitution 1980, 365). Prime Minister Trudeau further proposed a joint administration of offshore mineral resources between each of the coastal provinces and the federal government, with these provinces having a "major say on how these provinces are developed" (Federal-Provincial Conference of First Ministers on the Constitution 1980, 365).

The responses from the coastal provinces varied. In his presentation of the Nova Scotian position, Premier John Buchanan agreed with the prime minister on the need to suspend the ownership question for an agreement with Canada in order to gain "the measure of control over the pace of development" of offshore resources (Federal-Provincial Conference of First Ministers on the Constitution 1980, 368). Affirming his support for the MacLean Dalvay Principle, agreed to by the premiers of the Maritime provinces, which stated that "offshore resources should be treated in the same way as if those resources were found under the land mass of the coastal province" (Zukowsky 1981, 104), Nova Scotia's premier took a limited view of this principle by equating it with the issue of control and revenue rights. As a result, he merely demanded 100 percent of offshore resource revenues, and a large measure of control or veto over regulatory issues of provincial priority, in what would be a shared responsibility between the province and the federal government, rather than a package that conferred full jurisdictional rights at par with resources onshore (Federal-Provincial Conference of First Ministers on the Constitution 1980). Buchanan argued that complete derivation of all revenues from offshore oil development would enable the province to train youths to work in the offshore industry, transform the province's status under equalization from 'have not' to a 'have,' and pay back the province's debt (Federal-Provincial Conference of First Ministers on the Constitution 1980). Finally, Buchanan assured the federal government that, as 'good Canadians,' residents of Nova Scotia would want other Canadians to share in the benefits of its offshore resources (Federal-Provincial Conference of First Ministers on the Constitution 1980).

Newfoundland and Labrador took a different position, being unwilling to suspend the issue of ownership. Premier Brian Peckford insisted that ownership rights derived from the belief that such rights confer

regulatory powers and authority to manage offshore oil, which is critically important because “it is the adjacent provinces which will experience all of the adverse impact which attends offshore resource development," and thus “no distant government, untouched by events, regardless of its benevolence or good intentions can adequately perform this function” (Federal-Provincial Conference of First Ministers on the Constitution 1980, 383).

As Minister of Energy and Mines from 1976-79 prior to becoming Prime Minister in 1979, Peckford had challenged the federal government’s proprietary rights over the emerging offshore oil industry in 1977 by releasing a “comprehensive set of exploratory drilling regulations aimed at ensuring that the industry would primarily benefit the province” (Higgins 2011). Oil companies protested these regulations and halted drilling operations, but nevertheless complied in 1978 (Higgins 2011). The September 1980 Federal-Provincial Conference of First Ministers on the Constitution presented him with the opportunity to demonstrate his unwavering tenacity in affirming provincial ownership, which was at odds with the position of Prime Minister Trudeau. Though he agreed with both Trudeau and Buchanan on the utility of political instead of judicial solution, he contended that the principle of “juridical equality of provinces” in Canada implies that “resources of all provinces, regardless of whether these resources are land or forests, minerals or water power, regardless of whether they exist on mountains or valleys, on the surface or beneath it, are covered by air or water must be accorded the same constitutional treatment” (Federal-Provincial Conference of First Ministers on the Constitution 1980, 378). He reminded his fellow first ministers that the federal policy concerning offshore oil conflicted with the principle of provincial equality because resources off the shores of Newfoundland were being treated differently from those on the land of the Western provinces. Furthermore, the same federal government that was urging Newfoundland to forego its claims to proprietary and legislative rights over its offshore resources never questioned Ontario’s rights to offshore gas in its sea bed, where the first natural gas well was drilled in Lake Erie in 1913, in international waters (Federal-Provincial Conference of First Ministers on the Constitution 1980, 382).[65] Peckford also rejected the federal government's claim that coastal provinces would cease to benefit from offshore revenues when their fiscal capacity reached the national average or when they became 'have' provinces. He argued that this was “hardly an adequate response to the citizens of a province who see their fellow Canadians with average earned incomes twice their own” (Federal-Provincial Conference of First Ministers on the Constitution 1980, 384), and likened the situation to telling someone who was on welfare that you would give him a chance to pay his bills, and then putting him back on welfare afterwards (Federal-Provincial Conference of First Ministers on the

[65] The issue of Ontario’s ownership of the resources under its sea bed was first broached during the Conference by Nova Scotia and then repeated by Newfoundland, Quebec, and British Columbia, with British Columbia Premier William Bennett pointing out the double standard in the Prime Minister’s proposal to the coastal provinces, which is “not the Canadian way” (1980, 388).

Constitution 1980, 385). Peckford therefore concluded that without a "constitutional amendment confirming ownership rights to the offshore resources in the provinces," no matter how the federal government's proposal is improved, "would still be unacceptable because it stems from a "fundamental inequality in the treatment of provinces" (Federal-Provincial Conference of First Ministers on the Constitution 384) and "the antithesis to what the whole basis of Canadian federation is all about" (Federal-Provincial Conference of First Ministers on the Constitution 1980, 423).

With the lack of agreement between these provinces and the federal government, as well as between the Atlantic provinces themselves (Zukowsky 1981), the provinces adopted different strategies to pursue their interests. Nova Scotia eventually entered into an agreement with the federal government in 1982, known as the Canada-Nova Scotia Agreement on Offshore Oil and Gas Resource Management and Revenue Sharing.[66] Prime Minister Trudeau thought that the federal government's agreement with Nova Scotia would put Newfoundland under pressure to resume negotiations on the federal government's terms, but this did not happen (Blake 2015). Instead, Newfoundland pressed on with its case, hoping to put political pressure on the federal government to accede to a settlement on its terms, and the federal government announced that it would refer the Newfoundland offshore case to the Supreme Court for interpretation regarding jurisdiction (Crosbie 2003).

Newfoundland continued its struggle, dismissing the Canada-Nova Scotia Agreement on Offshore Oil and Gas Resource Management and Revenue Sharing as a bad example for Newfoundland to follow because it offered too little to the provinces. The bases of Newfoundland's rejection, or even scorn, of the Canada-Nova Scotia agreement were twofold. Its agreement to "put aside" the question of ownership if negotiations over resource management and revenue sharing would take place, and if the terms were respected by both parties, was similar to that of Nova Scotia, which had also dropped the issue of ownership, though without conditions or caveats.[67] However, Newfoundland's proposal on the issues of

[66] Nova Scotia was less aggressive in its claims, not merely because of its favourable economic conditions compared to the other three Atlantic provinces in the decade prior to the offshore conflict of the 1980s, but also because it did not have a strong legal basis to make those claims (Adamson 1985, 49). In essence, this means that Nova Scotia did not have the same kind of political and constitutional history as Newfoundland, whose later entry into Confederation provided, at least in its leaders' estimation, unassailable grounds for the assertion of its claims. In addition, it did weather the 1981-82 recession better than some of the other Canadian provinces and even outperformed the other provinces in economic growth in 1984, largely as a result of cooperation between its premier and the Prime Minister that enabled Nova Scotia to benefit economically from NEP support for its offshore gas developments (Adamson 1985).

[67] The caveat here is that Newfoundland staked ownership as a basic condition for any accord it reached with the federal government to be respected permanently and not to be repudiated by both parties. This emanated from the province's fear that deals would be struck and promptly repudiated, a common feature of agreements under executive federalism. Thus, the province argued that the only grounds under which it would trade away the issue of ownership, which it had claimed alongside management/control and fair revenue sharing since the beginning of the conflict, would be if doing so

control/management and revenue sharing differed from the terms of the agreement that Nova Scotia had negotiated with the federal government. In the Nova Scotia agreement, the board was made up of two members chosen by the provincial government and three members chosen by the federal government, with the federal minister holding the veto power. By comparison, Newfoundland's proposal featured three board members from the federal government and three from the provincial government, with a seventh, independent member. To summarize, Newfoundland wanted real "joint regulation" (Newfoundland House of Assembly 1982, 1033) for offshore mineral administration, rather than the Nova Scotia agreement that "gave the Government of Canada the control of Canada-Nova Scotia Oil and Gas Board," which was instituted to oversee offshore oil development, to the federal government (Adamson 1987, 50).

Newfoundland's continued claim of offshore mineral rights was referred to the Newfoundland Court of Appeal in February 1982. However, another contingency development related to its offshore development, the discovery of the Hibernia oil field 170 nautical miles east of St. John's, influenced the federal government's May 1982 decision to institute its own reference at the Supreme Court of Canada to decide which order of government had jurisdiction over the Hibernia oil field, thereby escalating the conflict between the federal government and Newfoundland. As Justice Minister Jean Chrétien stated, the federal government decided to refer the case to the Supreme Court of Canada because the development towards commercial production at Hibernia was moving at a faster pace compared to the negotiations with Newfoundland. This caused uncertainty for oil companies as to which regulatory regimes already in place, that of the federal government or that of Newfoundland, would apply to them; it was clear that a quicker resolution of the case would solve this problem (Plaskin 1982). However, the federal government's decision to bypass the Newfoundland Court of Appeal in favour of the Supreme Court of Canada infuriated Premier Peckford and his party members. The main reason for Newfoundland's anger over the federal government's decision was the point that Energy Minister William Marshall made during a debate in the Newfoundland Assembly, that "the government of Canada has pre-empted a reference by a provincial government on a constitutional matter by going directly to the Supreme Court of Canada" (Newfoundland House of Assembly 1982, 1026). Another reason voiced by some members of the Progressive Conservative party, but which the opposition Liberals dismissed as nonsensical, was that the federal government instituted the case in the belief that the Supreme Court would rule in its favour (Newfoundland House of Assembly 1982). It was, therefore, not surprising that Peckford and members of his ruling party roundly condemned the federal government's deposition of the Reference at the Supreme Court. Denouncing this act in the Newfoundland House of Assembly of

would guarantee the permanence of any agreement it reached with the federal government, or in the words of William Marshall, then Newfoundland energy minister, if an agreement were entered into "that neither side could tear up" (Newfoundland House of Assembly 1982, 1031).

May 29, 1982, Newfoundland Energy Minister William Marshall described the federal government's decision as "a hostile act of aggression which one would more appropriately expect from an unfriendly alien power than from the national government of our own country" and "a land grab by the Central Government of Canada representing all Canadians" (Newfoundland House of Assembly 1982, 1028). He noted that he did not believe that the federal government's action represented the "wishes of all Canadians" and affirmed his hope that "eventually the court of public opinion… [would] supervene" the federal government's action (Newfoundland House of Assembly 1982, 1028).

In both cases, the court decisions were not favourable to Newfoundland. In the reference deposited by the province—Re: Mineral and Other Natural Resources of the Continental Shelf of Newfoundland (1983) at the Court of Appeal of Newfoundland, the Court decided that the province had rights only to the three-nautical-mile territorial sea (Saunders and Finn 2006). In the Hibernia Reference, the Supreme Court affirmed the federal government's sovereign rights over the mineral resources in the seabed of the continental shelf. The centre of Newfoundland's confidence that its legal claims to its offshore region were more assailable than those of other provinces was its status as the latest province to join Confederation (Blake 2015, 3). Its argument was that it had once held the status of a Dominion, like that of Canada itself, and had done so when existing international practices regarding the law of the sea were being entrenched, and this, coupled with its late entry into Confederation, gave it a stronger claim to its continental shelf than other provinces that had joined Confederation long before the focus on offshore petroleum. However, this argument did not sway the justices of the Supreme Court on its behalf. Besides its argument that the international law of the sea was not fully developed at the time that Newfoundland entered Confederation, the Supreme Court also argued that the province's Dominion status and, by implication, self-government, had been cancelled or put in abeyance following the takeover of its government by the Commission Government as a condition for economic help provided by Canada and the United Kingdom to enable it to recover from the economic downturn that it faced during the Great Depression.[68] The Supreme Court maintained that because the surrendered self-government had not been re-established before Newfoundland joined Confederation, its constitutional history was not very different from that of the other partners of Confederation, or as exceptional, as the province had argued.

[68] Sworn in on 16 February 1934, the Commission Government was a non-elected governing body consisting of 6 members (with the governor as the chairman and seventh member) nominated by the British government, with the British members appointed as commissioners to senior departments—natural resources, public utilities, and finance—which were considered strategic to economic revival and balancing the budget (Webb 2001). Prior to joining Canada in 1949, Newfoundland could be regarded as merely 'a dominion in name,' and although its constitution became "similar to those in force in the empire's Crown colonies," its affairs remained under the supervision of the Dominion Office in London, whose permission the government (Commission of Government) required to perform any major policy initiative (Webb 2001).

With the decisions of the Newfoundland Court of Appeal and the Supreme Court of Canada not in its favour as it had hoped, Newfoundland lost the leverage that victory in the courts would have granted it to affirm its proposition for a political settlement. Operating from a weakened bargaining position, Peckford was buoyed by auspicious timing, reflected in favourable election dynamics. Pierre Trudeau, the longtime leader of the Liberal Party who had opposed extensive concessions to Newfoundland, had resigned due to declining popularity, and was replaced as Prime Minister by John Turner. In a bid for broad support, Progressive Conservative Party leader Brian Mulroney promised to improve relations with the provinces; he signed a written agreement with Brian Peckford, assuring him that "if elected, he would give the province equal say over offshore management" and ensure that the province benefits most from oil and gas resources off its shores (Higgins 2012). The Mulroney Conservative Party won a decisive victory in the 1984 election, not only with the popular votes from Newfoundland and Nova Scotia, but also the majority of the seats from these provinces. The Atlantic Accord, signed in 1985, was the product of the Mulroney-Peckford agreement. Besides being the result of improved relations between Ottawa and the provinces, the Accord also was a fulfilment of Mulroney's campaign promise to "open" Canada "for business again" (Finlay n.d.; Pollard 1986). This theme resonated with businesses as well as the provinces of Newfoundland and Nova Scotia due to the uncertainty between the federal government and the coastal provinces during the Trudeau era. For instance, though it was first discovered in 1979, the Hibernia oil field was not properly developed until 1986,[69] one year after the Accord.

Newfoundland's persistence and assertiveness that led to the signing of the Atlantic Accord between the province and Mulroney's Conservative government in 1985 opened the way for Nova Scotia to renegotiate the Canada-Nova Scotia Oil and Gas Agreement Act in 1986 by capitalizing on a clause in that agreement that gave it the right to adopt an agreement that another province had obtained from the federal government if that agreement was a more favourable one. Known as the Canada-Nova Scotia Offshore Petroleum Resources Accord, the 1986 Atlantic Accord differed from the 1982 agreement in that it established a joint management regime, with a 5-member board, the Canada-Nova Scotia Offshore Oil and Gas Board, jointly appointed by both the federal government and the province. The federal government and the province would appoint two members each, while the fifth member, who would serve as the Chairman, was jointly appointed by both governments. However, the federal government, through the federal Minister of Energy, still had veto power on the decision of the joint board as it did in the 1982 agreement (Adamson 1985, 50). Another important element of the new arrangement was that Nova Scotia would have control of offshore revenues as if those revenues came from land-based resources. As well, the $200 development fund that was provided as a loan in the

[69] Offshore Technology, n.d. Hibernia, Canada. www.offshore-technology.com/projects/hibernia/

previous agreement became instead a gift to the province (Adamson 1985, 50). Finally, the new Accord guaranteed that equalization transfers to Nova Scotia would be insured against offshore oil revenues, thus preventing "a dollar-for-dollar loss of equalization payments as a result of Nova Scotia receiving royalties from the offshore hydrocarbons" (Adamson 1985, 51).

Besides granting Newfoundland joint management/decision-making and regulatory powers through the Canada-Newfoundland Offshore Petroleum Board, the Accord also aimed to make Newfoundland the "principal beneficiary" of its resources. Prime Minister Mulroney had argued that in order for Newfoundland to collect revenues from offshore oil as it would from resources on land, the government of Canada would protect the province's equalization payment from a dollar-for-dollar loss as its offshore oil revenues increase by providing offset payments to the province that were "equal to 90 percent of a year's reduction in equalization payments," with the 90 percent offset rate reduced, beginning in the fifth year of production, "by 10 percent for each subsequent year" (Crosbie 2003, 266-67). This protection from equalization clawbacks, which was expected to last for 12 years, was designed, as Peckford happily noted, to allow Newfoundland "to catch up socially and economically to the rest of Canada" (Crosbie 2003, 267).

Yet, the optimism displayed at the signing of the Accord seemed to have been misplaced, as the expected benefit of offshore development took more time than expected to materialize. Though development in the Hibernia oil field began in 1986, it was not until 1997 that production started (Blake 2015; Offshore Technology, n.d). With protection from equalization clawbacks pegged at a 12-year period, the lateness of offshore development and production meant that "the 12-year period for which Accord equalization offset payments are to be made by the federal government to Newfoundland began only in 1999" (Crosbie 2003, 273).[70] The impact of the delay in offshore oil development meant that, contrary to extremely optimistic assumptions such as that of Jean Chrétien, who boasted as Natural Resources Minister in 1984 that "provincial revenues from Hibernia might be large enough to make Newfoundland a "have" province within five years of production," by 2011, when the offset payments would have otherwise expired, the "total cumulative Hibernia royalties paid to Newfoundland was "estimated to be between $400 million and $600 million, or approximately 50 per cent of just one year's equalization payments to Newfoundland in any year during the period 1997 to 2004" (Crosbie 2003, 273).

[70] For Newfoundland, for example, the Atlantic Accord stipulated that the weight or value of compensation would begin at 90 percent in the year the protection against the equalization clawback is triggered, until the fifth year, when the protection would begin to fall each year by 10 percent until it reaches zero in the eighth year, i.e., counting from the fifth year of the 12-year offset payment period (Ploudre 2006, 58). Newfoundland first received revenues from offshore oil in 1995-96, while the protection against the equalization clawback came into effect in the 1999-2000 fiscal year (Ploudre 2006, 58).

With these projections not realized as expected, it became evident that Newfoundland (and Nova Scotia) would not attain 'have' status before the expiration of the offset payment, which operates on a sliding scale of decreasing value, as the offset payment had already been triggered even though offshore oil production and its resulting revenues had developed more slowly than anticipated. This unplanned development, itself partly affected by intergovernmental conflict between Ottawa and the provinces over jurisdiction that delayed early offshore oil development (Cullen 1990), meant that the federal government rather than the provinces would be the principal beneficiaries of offshore development. This prospect prompted Crosbie (2003) to suggest to the Newfoundland Royal Commission that unless the Atlantic Accord was adjusted to account for the delayed evolution of the offshore industry vis-à-vis the expiration of the offset payments, by the end of the 12-year offset payment period Newfoundland "[would] still be on equalization and will receive no further net revenue sharing under the Atlantic Accord" (273). Thus, the goal of the offset, which was to enable Newfoundland to reach 'have' status, would not be realized.

Nova Scotia also had problems with the operation of its own offset, which had been designed to last for ten years. The offset formula for the Cohasset-Panuke (CoPan) oil project, "which produced very little in the way of royalties to offset its six-money-losing years of operation," was triggered in 1993, with the implication that when the "much larger Sable project eventually began to produce larger revenues for the province, most of the ten years of offset protection had elapsed (Starr 2011, 213). As a result of all this, the expectations that the fiscal capacities of Newfoundland and Nova Scotia would have reached 123 percent of the national average before the end of the offset period were not met.

With their offsets squandered without achieving their purpose of making them principal beneficiaries of their offshore resources, the premiers of Newfoundland and Nova Scotia carried out negotiations and public opinion campaigns, including Nova Scotia Premier Hamm's *Campaign for Fairness*[71] for a renewal of the Atlantic Accords and the removal of natural resources from the equalization program. However, the attempts of Newfoundland and Nova Scotia to renegotiate the Accords did not yield significant success initially, as successive prime ministers, from Jean Chrétien to Stephen Harper, were not particularly interested in amending the Atlantic Accord. For instance, Prime Minister Paul Martin had insisted that these provinces would have to make do with the generic solution,[72] which means that 30 cents on the dollar of additional energy revenues would be left for these provinces, while 70 cents was

[71] The campaign was meant to "improve the understanding and awareness of our fellow Canadians about our province's long term plan to achieve economic independence" (Premier's Office Nova Scotia 2001).

[72] Introduced in 1994, the "generic solution" worked by excluding 30 percent of a province's revenue source from the calculation of its fiscal capacity if that "province has 70 per cent or more of a single revenue source" (Government of Newfoundland and Labrador 2003, 95).

clawed back (Greenspon 2001). The premiers of Newfoundland and Nova Scotia, however, felt that the protection of 30 percent of their offshore oil revenues from equalization clawbacks while beneficial sometimes was not the best option for their provinces at some other sometimes, especially whenever oil prices are high, in which case, the protection from "dollar for dollar loss of equalization payments as a result of offshore revenues flowing to the Province" (Blake 2015) which the Atlantic Accord guarantees the provinces through offset payments, would be the best option (Government of Newfoundland and Labrador 2003). Meanwhile, successive premiers have insisted that the generic solution serves the same purpose that the offset payment in the Atlantic Accord was meant to serve, with Stephane Dion, Jean Chrétien's Minister of Intergovernmental Affairs, even suggesting that the generic solution was a better option than the Atlantic Accord, as the former yielded far greater benefits to Newfoundland (Blake 2015). As noted in the previous chapter, the campaigns of Newfoundland and Nova Scotia to amend the Atlantic Accord to allow benefits from offshore resource revenues without equalization reductions, and the unwillingness of Prime Ministers Martin and Harper to adopt that option, and the political firestorm over broken promises and trust deficits, not only exacerbated the conflict but also contributed to a higher degree of conflict protractedness over oil in Canada.

7.6. Historical Overview and Evolution of Offshore Oil Conflict in Nigeria

Historically, exclusive rights over ownership and control of Nigeria's onshore and offshore oil resources have been vested in the federal government, with the country's original three regions at federalization sharing in offshore revenues (Iledare and Suberu 2012). During the Constitutional Conference of 1958, it was agreed that the "exploitation and exploration of the continental shelf adjacent to the coast of Nigeria, including that of the Trust Territory of the British Cameroons should be a federal matter" (Report by the Resumed Nigeria Constitutional Conference 1958, 614) in order to bring Nigeria's offshore domain practice, "in accord with international practice" as James Robertson, the Governor General of Nigeria, noted (Report by the Resumed Nigeria Constitutional Conference 1958, 613). However, it was also agreed that revenues from offshore oil production should be shared between all the governments in a manner similar to the sharing of onshore oil revenues as recommended by the Raisman Commission: 50 percent for the geographical region in which offshore development takes place (i.e. the derivation rule), 20 percent to the federal government, and 30 percent to be deposited in the Distributable Pool Account (DPA) to be shared between the three regional governments of the time (Awa 1958, 1960).

A significant move to kickstart offshore exploration was the Nigerian Council of Ministers' 1959 decision to grant concessions for offshore drilling (Frynas 2000). Unlike onshore oil, for which Shell-BP was the sole concessionaire, the Ministers agreed "not more than four blocks of 1,000 sq mile should be granted....to any one company" (cited in Frynas 2000, 11-12) so as to prevent a monopoly in the continental shelf. Two Oil Exploration Licenses (OELs) each were granted to Mobil, Texaco, and Gulf (Chevron) in 1961, in addition to Shell-BP, which also received four OELs (Okonta and Douglas 2003;

Schätzl 1969). In both 1963 American Overseas Petroleum Ltd. (later Texaco Overseas [Nigeria] Petroleum Ltd.) and Gulf (later Chevron) discovered oil at the Koluama Okan and Okan Fields respectively,[73] which became the first offshore commercial oil field in Nigeria, with production at the Okan Field beginning in 1965 (Frynas 2000). Other production followed in Elf (formerly Safrap), and Mobil, and Texaco oil fields in 1966, 1969, and 1970, respectively (Okonta and Douglas 2003).

The earliest constitutional rule concerning offshore revenue distribution occurred in the First Republic (1960-1966), in which sections 134 and 140 of the 1960 and 1963 constitutions, respectively, stipulated that 50 percent of offshore oil revenues, just like onshore oil revenues, should be returned to the region of origin on the basis of derivation (Federal Republic of Nigeria 1960, 1963). However, this derivation rule was changed during the terminal period of the civil war when the federal government, through Decree No. 113 of 1970, reduced the percentage from 50 percent to 45 percent (Attah 2012). After the war in 1971, the federal government revised the application of the derivation rule for offshore oil by making a distinction between revenues from offshore and onshore oil, and restricting the revenues that would be treated using the derivation rule to those from onshore oil production only, while keeping revenues for offshore oil for itself (Iledare and Suberu 2012). This is the beginning of the onshore-offshore oil dichotomy, which, three decades later, was at the heart of Nigeria's offshore oil conflict. This move, which in essence reduced the revenues going to the littoral states and in turn increased the share of revenues going to the federal government, was justified on the grounds of the enormous responsibility of postwar reconstruction that the federal government faced (Attah 2012). However, this decision, seemingly taken to meet the exigency of post-war reconstruction, was not reversed in either the Constitution bequeathed by the military for the return to civil rule in 1979, or in the Allocation of Revenue Act (Cap 16) enacted under the Shehu Shagari civilian government.[74] It was not until 1992, during the military government of Ibrahim Babangida, that this dichotomy was reversed, via Decree 106 of 1992. This decree, which was an amendment to the Allocation of Revenue Act (Cap 16), stipulated that "an amount equivalent to one per cent of the Federation Account derived from mineral revenue

[73] "Nigeria." https://www.chevron.com/worldwide/nigeria

[74] Besides the emergency issue of post-war reconstruction, the Yakubu Gowon military government's decision to apply derivation only to revenues from onshore oil production should be seen as part of the postwar military governments' desire to play a central role in the management of the country's oil resources; or, in the words of Phillip Asiodu, then a top bureaucrat in the ministry of Mines and Power which designed the country's oil policy, "to strengthen the principle of 'national management' of the oil wealth" (Zartman 1976, cited in Adunbi 2015, 47). As a result of the OPEC price increase of 1973, fiscal imbalances arose, largely in favour of the federal government and, to some extent, the few oil-producing states. These imbalances produced discontent among the non-oil-producing states, and even in the oil-producing states, which believed they would have benefitted more from the boom had the 1960-63 formula for sharing offshore revenues remained in place. Suffice to say that, following this imbalance, the federal government eventually relinquished the offshore oil revenues it had expropriated for itself to be distributed to the states via the DPA (Human Rights Watch 1999).

shall be shared among the mineral producing states based on the amount of mineral produced from each state and in the application of this provision, the dichotomy of onshore-offshore oil producing and mineral oil and non-mineral oil revenue is hereby abolished" (Supreme Court of Nigeria 2002). However, as with the 1979 Constitution, the 1999 Constitution did not explicitly make provisions regarding treatment of offshore oil revenues as did the constitutions of the First Republic (Iledare and Suberu 2012). This constitutional silence was to later lead to tensions between the federal government, the littoral (oil-producing) states, and the non-oil-producing states.

With the return to democratic rule in 1999, the conflict over offshore oil revenues began to rear its head when, in 2000, the Obasanjo administration presented a bill to the National Assembly for the creation of a development agency for oil-producing states, the Niger Delta Development Commission (NDDC). The different understanding of how to treat offshore oil revenues came to the fore through the proposal for the funding of the agency, which, according to the NDDC Bill, would come from governments and oil companies. In deciding what share of revenues oil companies would contribute to the agency, the president proposed that 2 percent of the proceeds from onshore oil production should be dedicated to funding the agency. This proposal was taken to imply that the federal government intended to retain exclusive rights to the proceeds of offshore oil for the federation. This immediately soured the relations between the executive and the legislature, with the legislature amending the president's proposal by increasing the share of the oil companies' contributions to 3 percent, and extending the sources of the funds to offshore oil production (United Nations IRIN 2000). The president refused to give his assent to the legislators' amendment, asking them instead to reconsider the Bill in its original form.[75] The legislators refused to change their position, and the House of Representatives (HoR) overrode the bill in June 2000. After the HoR's notice to the president about the override passed without any response from him, the president made frantic efforts to ensure that the override did not obtain concurrent support in the Senate for its passage into law, including plans to unseat the Senate President Chuba Okadigbo (United Nations IRIN 2000).

The disagreements over the NDDC and the place of offshore oil in its funding were preludes or signposts to a bigger conflict regarding the onshore-offshore oil dichotomy. The crux of the problem was whether the application of the derivation principle, as provided for in Section of 162 of the 1999 Nigerian Constitution, should apply to offshore oil production as well as onshore oil production, to which the principle was then applied by the Obasanjo government:

> The President, upon the receipt of advice from the Revenue Mobilization Allocation and Fiscal Commission, shall table before the National Assembly proposals for

[75] Following the deadlock in passing the bill, in May 2000, some youths in the oil-producing region, organized under the banner of the Ijaw Youth Congress (IYC), threatened to attack oil platforms if President Obasanjo refused to give his assent to the bill after 30 days (Nwankwo 2000).

> revenue allocation from the Federation Account, and in determining the formula, the National Assembly shall take into account, the allocation principles especially those of population, equality of States, internal revenue generation, land mass, terrain as well as population density; *Provided that the principle of derivation shall be constantly reflected in any approved formula as being not less than thirteen per cent of the revenue accruing to the Federation Account directly from any natural resources*.[76]

The 1999 Constitution differed from that of 1979 in its explicit provision regarding the derivation formula. However, both are similar in their silence as to whether offshore oil production is included in the derivation principle. Together, these constitutions differ from the 1960 and 1963 Constitutions, in which the sources of oil production were explicitly addressed, thus precluding intergovernmental or interregional disagreements over any dichotomy between onshore and offshore oil. In addition to provisions regarding onshore oil proceeds for the purpose of the application of the derivation principle, these constitutions also made explicit revisions regarding offshore oil proceeds. In other words, in these constitutions, the 50 percent derivation applying to natural resources included both onshore and offshore natural resources. For instance, Section 146 of the 1963 Constitution stated, "there shall be paid by the Federal Government to a Region, a sum equal to fifty percent of the proceeds of any royalty received by the Federation in respect of any minerals extracted in that Region and any mining rents derived by the Federal Government from within any Region," adding for clarity that "for the purpose of this section, the continental shelf of a region was deemed to be a part of that region" (Federal Republic of Nigeria 1963).

The conflict over offshore oil legally began on February 6, 2001, when Bola Ige, then Attorney General of the Federation and Minister of Justice, deposited a writ of summons at the Supreme Court seeking the judicial interpretation of Section 162 of the 1999 Constitution on the payment of not less than 13 percent derivation funds to natural-resource-bearing states from the Federation Account. In the reference now known as *Attorney General of Federation v. Attorney General Abia State & 35 Ors*, the federal government's Writ of Summons and Statement of Claim asked the Court to determine "the seaward boundary of a littoral State within the Federal Republic of Nigeria for the purpose of calculating the amount of revenue accruing to the Federation Account directly from any natural resources derived from that State pursuant to the proviso to section 162 (2) of the Constitution of the Federal Republic of Nigeria, 1999" (Egede 2005, 74).

The recourse to judicial determination of the seaward boundary became necessary following claims and counterclaims between the federal government and the Niger Delta states. The crux of the disagreement was that, while the federal government believed the derivation rule should not apply to offshore oil revenues, the Niger Delta states argued that it should equally apply to both offshore and onshore oil

[76] Emphasis mine.

revenues. These states complained that since the return to democratic rule in 1999, the federal government had denied them the offshore component of this entitlement. The federal government was accused of only paying the onshore component of the derivation fund, which represented 7.8 per cent of the constitutionally-stipulated 13 percent (Fatuase 2000), while keeping the offshore component for the whole federation. Also at stake, according to these states, was the fact that even the derivation funds they did receive were in effect from January 2000, instead of May 1999, when the democratic government was installed. The pressures and vociferous demands by these states to be paid arrears of the derivation fund from June to December 1999, and most importantly, the application of the derivation rule to revenues from offshore oil production, led the federal government to approach the Supreme Court for a judicial interpretation of the issue. Specifically, the federal government sought an interpretation of the limits of the seaward boundary of littoral states within Nigeria, for the purpose of determining whether or not these states were entitled to be paid the derivation fund from offshore oil production in addition to onshore oil production.

While all 36 states of the federation were joined in the reference, only eight of these states – namely, Cross River, Akwa Ibom, Rivers, Bayelsa, Delta, Ondo, Ogun and Lagos – are littoral states, and at the time, Lagos and Ogun were not producing oil.[77] Also, while the ruling affected the 8 littoral states, it most adversely affected Akwa Ibom and Ondo, whose bulk of the 13 percent derivation fund comes from offshore oil production.

Initial reactions by the states to the federal government's suits differed. According to Ogbu and Okenwa's (2001) account of the proceedings on the reference, the littoral states raised both procedural and substantive objections to the case, all the states of the federation, except Osun and Oyo states, joined as defendants in the case and exchanged pleadings (Supreme Court of Nigeria 2002). Abia state, which adopted its briefs at the Supreme Court, argued that it should not have been joined as a party to the case in the first instance, and asked the court to strike its name from the reference. Some of the littoral states, on the other hand, argued that there was no need for judicial action by the federal government, as there was no dispute between them and the federal government (Ogbu and Okenwa 2001). These states also argued that the judicial action was prematurely filed and procedurally faulty, as the states had not committed any offence, but rather, it was the federal government that underpaid states, thus violating the constitution that took the states to court. Other littoral states, such as Akwa Ibom, raised substantial issues against the reference (Ogbu and Okenwa 2001). They argued that the RMAFC was charged by the 1999 constitution to prepare a revenue formula and send that formula to the president and the National Assembly, and until such an act is formalized, the 1992 military decree, which abolished

[77] As noted previously, Lagos joined the league of oil-producing states in 2016; Mobil also discovered oil offshore of Ogun state (see Lagos State Government 2016; Reuters 2016).

the onshore-offshore dichotomy, was the existing and relevant law on the issue (Ogbu and Okenwa 2001). Bayelsa and Akwa Ibom explicitly made this submission, with Akwa Ibom even arguing that, based on section 315 of the 1999 constitution which supports the Decree, any Act of the National Assembly on this issue is secondary to the 1992 decree that abolished the offshore-onshore dichotomy (Ogbu and Okenwa 2001). It was clear from the littoral states' defense that they wanted a political, instead of a judicial, interpretation of the controversy. However, the Supreme Court decided to proceed with the case in spite of the objections of the littoral states, regarding their claim that there was no dispute as a contradiction to their claim that they were being shortchanged by the federal government in the payment of the derivation funds. The Supreme Court justices, therefore, decided to assume jurisdiction over the case, arguing that in spite of "the pleadings of the parties in this case, there is a serious dispute between the plaintiff and the littoral states as to the seaward limit of the latter's territories" (Supreme Court of Nigeria 2002).

The Supreme Court summed up the main contentions between parties as follows:

A. The Federal Government contends that the southern (or seaward) boundary of each of these States is the low-water mark of the land surface of such State or, the seaward limit of inland waters within the State, as the case so requires. The Federal government, therefore, maintains that natural resources located within the Continental Shelf of Nigeria are not derivable from any State of the Federation.

B. The eight littoral States do not agree with the Federal Government's contentions. Each claims that its territory extends beyond the low-water mark onto the territorial water and even onto the continental shelf and the exclusive economic zone. They maintain that natural resources derived from both onshore and offshore are derivable from their respective territory and in respect thereof each is entitled to the "not less than 13 per cent" allocation as provided in the proviso to subsection (2) of section 162 of the Constitution.

From the perspective of the federal government, the reference to the court was imperative because the 1999 Constitution was silent as to whether the derivation rule should apply only to onshore oil or to both onshore and offshore oil. The federal government's argument was that the derivation fund should only apply to onshore oil, as Decree 9 of 1971 (The Offshore Oil Revenues Decree 1971) stopped the earlier practice, enshrined in the 1960 and 1963 constitutions, that 50 percent of both onshore and offshore oil rents and royalties would revert to the regions (and later states) based on the derivation principle. This military decree effectively created a dichotomy between offshore and onshore oil for the purpose of paying the derivation funds to the oil-bearing states, with the federal government effectively keeping 100 percent of rents and royalties from offshore oil for itself while derivation was applied only to the revenues from onshore oil production. In response, the littoral states argued that, even though the 1971 military decree had established the onshore-offshore oil dichotomy, another military decree

in 1992 had abolished it. They argued further that, even though the 1999 Constitution was silent on the issue, the 1992 Decree still remained relevant and thus applicable to the derivation rule. In short, the littoral states argued that derivation should be applied to offshore oil, which they claim is their right because "there can be no distinction between territorial land and territorial waters" (Vanguard 2001).

According to Victor Atta, then governor of Akwa Ibom, the governors had threatened to go to court to address their grievance over what they considered the incomplete payment of the derivation funds, but were persuaded by President Olusegun Obasanjo to settle out of court. However, Obasanjo's federal government then reversed its position and took the states to court over the same issue (Ojewale 2001).

However, while the federal government outsmarted the littoral states by taking the case to the Supreme Court despite having discouraged the states from taking such an action themselves, the governors of these states had even started to pressure the president through political means before the federal government's legal action when the governors of the South-South political zone, comprising six of Nigeria's oil-producing states, openly declared their commitment to controlling their resources in a meeting in Benin-city in July 2000. In an unprecedented move by elected political officials of the oil-producing states in the Niger Delta (or South-South geopolitical zone), which nevertheless aligned with the decision previously taken by community and associational groups in the region such as the Movement for the Survival of Ogoni People (MOSOP) and Ijaw Youth Council (IYC), the governors and legislators of the six states demanded complete local control of the resources in their territories. According to them, their demand was in line with the practice of true federalism:

> In which the federating units express their rights to primarily control the natural resources within their borders and make agreed contribution towards maintenance of common services of sovereign nation state to which they belong. In the case of Nigeria, the federating units are the 36 states and the Sovereign nation is the Federal Republic of Nigeria. (Adeniyi 2002)

To actualize this demand, the state governors requested:

> The National Assembly through the State Houses of Assembly of the South-South zone to pass an Act empowering the states to take full control of their respective natural respources on behalf of the people. (cited in Elaigwu 2012, 116)

In fact, arguably, it was the governors' campaign for resource control that hastened Obasanjo's recourse to the legal option that he believed would work in the federal government's favour and which would serve to silence the governors' agitations. Meanwhile, the governors' unprecedented action was in response to President Obasanjo's refusal to completely pay revenues due to these states, based on his argument that the derivation principle only applied to onshore and not offshore oil revenues. As James Ibori, then governor of Delta state, noted, the South-South governors requested full resource control, in contrast to the usual demand for an increase in the weight attached to the derivation principle, because they were tired of begging to be paid what was ordinarily their due (Nwosu 2000). The

president's recourse to a judicial interpretation of the offshore derivation case helped to reduce the political firestorm generated by the South-South governors' demands, even though the other 11 governors from the southern part of Nigeria (organized, together with the South-South state governors, as the Forum of Governors of Southern Nigeria) repeated those demands for full resource control in March 2001, one month after the federal government deposited its reference at the Supreme Court, citing resource control as an important step in the practice of 'true federalism' in Nigeria (Garba 2010). However, with time, disagreements between the governors on the modalities of how to achieve their goal, and, most importantly, the feasibility of achieving resource control by constitutional means in a country where minerals are constitutionally vested in the federal government and where non-oil producing states hold veto power in the national legislature, led to a lull in the governors' demands for resource control. Also, the South-South governors' demand for resource control was subdued when President Obasanjo decided to offer licenses to state-owned companies hurriedly-incorporated by these governors to operate marginal oil fields (Nigerian National Petroleum Corporation and Academic Associates Peace Works 2004).[78]

Meanwhile, in its ruling on April 5, 2002, delivered by Justice Michael Ekundayo Ogundare on behalf of the six of seven justices who presided over the case,[79] the Supreme Court validated the federal government's position that the derivation principle does not apply to offshore mineral resources because "natural resources located within the Continental Shelf of Nigeria are not derivable from any State of the Federation" (Supreme Court of Nigeria 2002):

> The seaward boundary of a littoral state within the Federal Republic of Nigeria for the purpose of calculating the amount of revenue accruing to the Federation Account directly from any natural resources derived from that state pursuant to section 162(2) of the Constitution of the Federal Republic of Nigeria 1999 is the low-water mark of the land surface thereof or (if the case so requires as in the Cross River State with an archipelago of islands) the seaward limits of inland waters within the state. (Supreme Court of Nigeria 2002)

[78] These are fields that contain few reserves, and hence are considered uneconomical for investment by MNCs, who usually prefer large scale operations. These fields were allocated to Nigerian companies through farm-out agreements between the major oil producers, the NNPC, and these local companies, including those owned by Niger Delta state governments. While this development was part of the government's effort to encourage local firms' participation in the oil sector, it also served to appease these state governors who have openly canvassed for such participation as a form of resource control.

[79] The minority decision was given by Justice Karibi-Whyte, himself from the Niger Delta, who argued that the Supreme Court should not even have taken on the case because it was a political dispute, and that if the courts, who are "angels of justice," keep on exercising jurisdiction in "recurrent political disputes with their attendant imminent social conflict," such as the case before the Supreme Court, then they risk "treading dangerous allies" (cited in Garuba 2010, 133).

In other words, the Supreme Court justices maintained that since "natural resources in Nigeria's continental shelf belong to the federation as a whole and, therefore, cannot be said to be derivable from the adjoining littoral states for revenue allocation purposes," the application of the derivation principle should be restricted to onshore oil (Iledare and Suberu 2012).

In a sense, the Supreme Court judgement was also a victory for the states as the Court's decision on the counterclaims of the states declared all first charges from the Federation Account and other government practices that reduced revenues in the Federation Account illegal. These included such acts as the use of revenues from the Account to pay for the federal government's funding obligation in the joint ventures agreements with oil companies and other projects of the NNPC, refusal to pay revenues from natural gas into the Federation Account, refusal to pay the derivation fund from May 1999 when the 1999 Constitution came into effect, and the allocation of money from the Account for the Federal Capital territory (Supreme Court of Nigeria 2002).

It should be pointed out that, besides the aforementioned core constitutional problem, other factors contributed to heighten the stakes of the distribution of offshore oil revenues. Carl Levan addressed one of these factors when he noted the role played by "new oil discoveries" offshore propelled by "major advancements in exploration technology" (2015, 104). As Country Watch (2017, 27) noted, "in 2001, Nigeria entered a new phase of oil exploration with the commencement of offshore deep water drilling (in over 6000 feet of water)" and "most of this oil's potential lies in the water off the Niger Delta region." This made offshore oil revenues more important than before. However, it was not just advanced technology that made deeper offshore production possible; conflict in the Delta, which was making onshore exploration difficult, was another important factor. As Ibeanu (2001) noted, under military rule, particularly the twilight period of the military's disengagement from politics in 1999, the Niger Delta was simmering with conflict triggered by a heightened sense of marginalization and perception of exploitation by the Delta's ethnic groups, who felt that several years of oil production has not benefited them. These perceptions were exacerbated by military rule, during which period peaceful ethnic minority protests were repressed by the Nigerian state in partnership with the multinational oil companies (MNCs). The high point of this forceful suppression of dissent was the hanging of Ken Saro-Wiwa, the environmental activist and leader of MOSOP, and 8 others. Also, during this period, the adoption of economic policies such as the Structural Adjustment Programme (SAP), which impoverished Nigerian citizens in the Delta and elsewhere, and the economic insecurity emerging from this development, contributed to an upsurge in conflicts between minority and majority ethnic groups and between the minority ethnic groups of the Delta themselves (Osaghae 1995). The convergence of ethnic minority perceptions of being dispossessed of resources and wealth, high-handed government responses to resistance, and heightened economic insecurity led to intensified mobilization by various groups in the Delta. These groups demanded, through declarations such as the MOSOP's Ogoni Bill of Rights and

the IYC's Kaiama Declaration of 1998, resource control and self-determination for the Delta people by any means necessary, including violence (Ako 2011; Obi 2010). Over time, the boundaries between genuine agitations for justice and criminality became blurred (Oriola 2013; Ukeje 2011). Against this background, Obasanjo's presidential term began in 1999 with widespread youth unrest and frequent attacks on company facilities in the Delta. These incidents began to push oil companies from onshore to offshore operations, where the risk of explosive interactions between the oil companies and the local population were lower (Gary and Karl 2003). With the shift of attention from onshore to offshore exploration as a result of new discoveries as well as the threat of militancy and protests, which led to the reduction of Nigeria's oil production by about a third (Gary and Karl 2003), proceeds from offshore oil resources were more desired and more significant in conflicts over intergovernmental fiscal relations. The federal government's recourse to the Court for an interpretation of the constitutional provision regarding the derivation fund, which it believed would be decided in its favor, was, in part, an attempt to prevent the oil-producing states from reducing the revenues that would accrue to it from the much-prized offshore oil production.

However, the Supreme Court's ruling was not well received by the government and people of the Niger Delta, who stridently mobilized against it. The federal government responded to these agitations by initiating moves to craft a 'political solution' (Iledare and Suberu 2012). Following the recommendations of the Anenih Peace Committee, which was set up by the federal government to advise it on a way forward, Obasanjo submitted an executive bill to abrogate the onshore/offshore dichotomy, which was reaffirmed by the Supreme Court in the April 2002 judgment to the Senate. The President's Bill (The Allocation of Revenue (Abolition of Dichotomy in the Application of Principle Derivation) Act, began as follows:

> As from the commencement of this Act, the contiguous zone of a state of the federation shall be deemed to be part of that state for the purpose of computing the revenue accruing to the federation account from that state pursuant to the provisions of subsection (2) of section 162 of the Constitution of the Federal Republic of Nigeria. (1999)

However, even before the president's bill was submitted, some members of the senate initiated their own bill on the same issue. Thus, there was a need to harmonize both bills, and the Senate and HoR set up harmonization committees for this purpose. These committees were headed by Senators Udo Udoma and Hon Etta Etang, who represented Akwa Ibom, the state that was disadvantaged most by the Supreme Court ruling because most of its oil resources were located offshore. The committees promptly met and adopted a common bill that included a modification of the president's proposal. In harmonizing the executive bill with its own private member bill, the Senate and HoR substituted the 24 nautical miles or 'contiguous zone,' which was the limit of constituent states' territorial boundary proposed in the executive bill, to be used as the basis for derivation fund payments to the littoral states with 200

nautical miles or the 'continental shelf.' The National Assembly's bill, which "seeks to abolish any dichotomy between resources derived onshore and those derived offshore in the application of the principles of derivation for the purposes of revenue allocation" began as follows: "As from the commencement of this Act, the continental shelf and the Exclusive Economic Zone of the state of the federation shall be the basis of revenue generation accruing to a state," adding, "it shall be immaterial whether the revenue accruing to the Federation Account from a state is derived from natural resources located offshore or onshore" (Okocha 2002). The modification of the president's bill by the National Assembly stalled progress towards achieving political compromise, as the president refused to give his assent to the bill. In withholding his assent to the bill, the president argued that the lawmakers' modification of his initial proposal conceded too much to the states and that such an expansive view of constituent states' territory would conflict with international law. Obasanjo explained his opposition to the bill in a letter to the National Assembly leadership:

> As you may be aware, contiguous zone, which is next to the territorial sea is an area not exceeding 24 nautical miles from the base line. In this zone, a coastal country may exercise the control necessary to prevent or punish infringement of customs, fiscal immigration or sanitary laws and regulations within its territory or international sea. Furthermore, this zone appears to be farthest out into the open sea over which Nigeria or any other country can exploit the resources therein without engendering counterclaims by neighbouring or adjacent states. Bearing the foregoing in mind, the Executive thought it best when preparing the bill to limit the application of the Act on the abolishing of dichotomy to the contiguous zone adjoining the littoral states. However, in passing the bill, the National Assembly changed this position by extending the application of the Act to the continental shelf and the exclusive economic zone contiguous to a state of the federation. The implication of this amendment introduced in the bill by the National Assembly is far reaching, as it is a potential source of conflict between neighbouring coastal countries and Nigeria Moreover, it is instructive to note that a claim by a coastal country over any of these zones may engender a counterclaim by adjacent or opposite states which may have interest in the area. In the event of such development, the contesting countries may have to resort to negotiations to delineate their respective boundaries within the framework of UNCLOS III and customary practice in international law. In some cases, resort may even be taken to war to resolve the claims and counterclaims. (Ajayi, Amaize, and Aziken 2002)

Although the president cited technical reasons for his rejection of the National Assembly's modification of his bill, there were also important political reasons for his decision. Though elected representatives from different parts of the country supported the amendment of the president's original bill by the National Assembly, the entire abrogation of the onshore/offshore dichotomy bill was criticized by a powerful northern elite group, known as the Kano Elders Forum (KEF), led by the Emir of Kano, Alhaji Ado Bayero. In a terse statement of its opposition to the bill, the KEF argued, "The bill as it is at present goes against the spirit and letter of the constitution of the Federal Republic of Nigeria...The bill will seem to extend the territorial boundary of some states without going through the proper constitutional procedure for making such amendments and give them additional rights without corresponding

responsibilities" (Musa 2002). The group then emphasized what was, perhaps, the main reason for their opposition: that the "bill as proposed by the executive and amended by the National Assembly will have devastating consequences on the economies of non-oil producing states and seriously undermine the security of the greater part of the nation and ultimately the country at large" (Musa 2002). They called on the National Assembly to reconsider its position on the bill in the interest of the country as a whole. With opposition to the bill by a powerful electoral region, and his conviction that assent to the bill would undermine national unity, in mind, the president refused to sign the bill into law. He insisted that he would only give assent to the bill if the National Assembly did not alter the contiguous zone limit as he proposed in his original bill. Furthermore, he argued that extending the application of the bill to the continental shelf and the exclusive economic zone, as the National Assembly had proposed, would be "inadvisable and, indeed, dangerous" (Ajayi, Amaize, and Aziken 2002).

Obasanjo's veto elicited criticism from the National Assembly. For instance, Udo Udoma, a member of the Senate who played a prominent role in initiating the bill that the president turned down, described the president's contiguous zone proposal as "taking with the left hand what the right hand has given" (Odivwri 2002). In addition, the veto of the bill was one of the 12 points in the impeachment query that the House of Representatives (HoR) served on President Obasanjo (Osaghae 2015b). Meanwhile, attempts were made to use informal means, such as the meetings between President Obasanjo and oil-producing state governors, to resolve the stalemate that emerged from the president's veto of the onshore-offshore dichotomy abrogation bill. These processes coincided with the president's negotiations with the National Assembly to resolve the impasse.

Yet, with the HoR's threat of impeachment lingering over several issues, including his handling of the legislature's amended bill, and with the governors of the oil-producing states, civil society groups in the oil-producing region including the vocal South-South Peoples Conference (SSOPEC), traditional rulers from the region, and members of the National Assembly pressuring him to sign the bill as amended, President Obasanjo was aware that he needed to act on the political solution in order to mend fences with the National Assembly and allay the oil-producing states' fear that he did not have their interest at heart, in spite of the significant electoral support that the ruling party relieved from the region in the 1999 general election. The pressure became stronger as the 2003 election drew nearer, with the opposition ANPP presidential candidate, Mohammadu Buhari, making a political capital of the legislative deadlock by declaring his support for the abolition of the onshore-offshore dichotomy (Levan 2015, 105). In addition, there were some violent conflicts in the Niger Delta, some related and other unrelated, to oil with the return to democracy in 1999 (Omeje 2004). Even though violence did not specifically attend the offshore conflict there were fears that if not well handled, it could trigger its own bouts of violence.

At the same time, Obasanjo was also faced with pressures from the non-oil producing states, which later added their voices to opposition to any concession to the littoral states. After Obasanjo's veto, the

governors of the 19 northern states joined the debate by urging the National Assembly not to override the president's veto. The governors declared their support for the Supreme Court judgment in a communiqué read on behalf of the governors by Benue governor George Akume:

> While we support the action of the President for withholding his assent to the bill, we reject the executive bill in its entirety much less with amendments by the National Assembly because of its unconstitutionality. The littoral states cannot claim exclusive right over what belongs to all Nigerians, through the bill. The National Assembly should stand down the bill immediately. (Ojameruaye 2002)

Although President Obasanjo was initially averse to revisiting his veto of the National Assembly's amendment of his original bill, demands from the states and communities in the Niger Delta, including threats of withdrawing support for the ruling PDP in the 2003 general election, forced him to make concessions that would see the states benefit from offshore oil revenues. The president met with governors of the Niger Delta, at which they reached an agreement, with the president submitting a bill to the National Assembly in which an area "two hundred meters water depth Isobaths contiguous" to the littoral states was considered part of these states for the purpose of the derivation principle (Iledare and Suberu 2012). Following the agreement with the governors, the president sent another onshore-offshore dichotomy abolition bill to the leadership of the National Assembly on February 5, 2003. The bill was formally presented to the two sessions of the National Assembly on March 5, 2003, but could not be passed before it lapsed with the term of the legislators.

While the president's new proposal was before the National Assembly for consideration, the political compromise it represented did not seem to satisfy either side completely. The Niger Delta state governors, who negotiated this deal with President Obasanjo to increase their benefits from offshore oil production beyond the president's original proposal, seemed to be content with the new deal and did not criticize it. However, civil society/community groups in the oil-producing region were not fully impressed by the proposal, as they believe that the deal reduced the scope of revenues derivable from offshore oil that would accrue to the littoral states. For instance, the South-South People's Conference (SSOPEC), which had earlier issued an ultimatum to the president to sign the National Assembly's amendment to his original bill into law, rejected the new deal that sought to replace the continental shelf and Exclusive Economic zone with 200 metres depth isobath. Edwin Clark, the group's national deputy chairman, stated, "the amendment to the bill is unwarranted as it was not done in good faith. We are not shifting from our position that the bill should be signed as passed by the National Assembly, last year" (Amaize 2003).

The National Assembly did not act on the bill before the 2003 elections, and neither side in the dispute benefited fully from the bill's political compromise. All of this lent President Obasanjo some semblance of impartiality, in spite of criticisms that belie this, and thus gave him the manoeuvrability to gain support from both sides during the 2003 election. The president and his party not only received between

84 and 98 percent of votes in the Niger Delta states (LeVan 2015, 105), but also did appreciably well in the northern region, even though Mohammadu Buhari, his main challenger in the election, hailed from the north, and even though opposition to any concession to the littoral states had been high amongst governors and civil society groups in the region.

After the 2003 election, and with new leadership in both chambers of the National Assembly, the 2003 bill was eventually passed on January 20, 2004, and February 10, 2004, by the Senate and HoR, respectively, with President Obasanjo assenting to it on February 16 2004 (National Assembly of Nigeria 2004). Known as the Allocation of Revenue (Abolition of Dichotomy in the Application of the Principle of Derivation) Act, 2004, the new deal stipulated:

> (1) As from the commencement of this Act, the two hundred metre water depth Isobath contiguous to a State of the Federation shall be deemed to be a part of that State for the purposes of computing the Revenue accruing to the Federation Account from the State pursuant to the provisions of the Constitution of the Federal Republic of Nigeria, 1999 or any other enactment.
>
> (2) Accordingly, for the purposes of the application of the principle of derivation, it shall be immaterial whether the revenue accruing to the Federation Account from a State is derived from natural resources located onshore or offshore. (National Assembly of Nigeria 2004)

However, as with the submission of the executive bill for this Act to the National Assembly, opposition to the Act was rife from the littoral states who were supposed to benefit from it but considered the concession inadequate, and from non-littoral states who considered the concession in the Act to be chipping away the revenues that would have accrued to them, with the federal government caught in the middle of the firestorm.

For the littoral states, the reaction was mixed. Due to their negotiations with President Obasanjo before he sent the bill to the National Assembly, the governors of the littoral states, especially Akwa Ibom and Ondo, whose derivation funds come largely from offshore oil operations, were pleased that the deadlock had been resolved and their financial situations would be improved. However, the revenue spike that would accrue to them under the new law would be far less than what they would have received under the initial bill that had been vetoed by the president. Indeed, as a show of their satisfaction with the resolution of the conflict, the governors organized a thanksgiving service in conjunction with the Christian Association of Nigeria (CAN) to express gratitude to God for making the 'landmark' deal possible and sent 'thank you' messages to President Obasanjo (Solomon 2004). The governors were also not short of praises for President Obasanjo. That the littoral state governments responded positively to the Allocation of Revenue (Abolition of Dichotomy in the Application of the Principle of Derivation) Act 2004 was not surprising. This was especially true for Akwa Ibom state, whose 13 percent derivation fund comes almost from offshore production, the Supreme Court judgment led to huge fiscal shortfalls that,

in turn, led to deferrals of investment in most of the capital projects that the state governments had embarked upon, with most of these projects either abandoned or slowed down (Alabi, Okafor, and Bassey 2004). Indeed, as Olusegun Agagu, the governor of Ondo state, noted following the Supreme Court decision in April 2002 and while the impasse over a political solution lingered, Akwa Ibom and Ondo states—which had lost most of their revenues because most of the oil derived from their states are off-shore—were forced to receive federal funding or bailouts, approximately about one-third of the revenues they received prior to the Supreme Court judgment, in order to maintain some semblance of short-term financial solvency until the impasse over a new law abrogating the onshore-offshore dichotomy was resolved (Alabi, Okafor, and Bassey 2004).

On the other hand, civil society groups in the Niger Delta opposed the deal on the grounds that the 2004 Act was a fraud projected as a benefit for the people of the region. For instance, Itsay Sagay, a prominent lawyer from that region, demonstrated that, contrary to the governors' attitude, the new political solution was not as positive as it seemed. Barely six months after the enactment of the Allocation of Revenue (Abolition of Dichotomy in the Application of the Principle of Derivation) Act 2004, 22 non-littoral states, including the 19 northern states as well as Oyo, Ekiti, and Osun in the southwest, raised objections to the constitutionality of the abolition and approached the Supreme Court with a demand to declare the Act null and void (Suberu 2008). The governors argued, "If the Act is implemented, it will impact negatively on the amount that will accrue to the Federation Account and this will in turn reduce the shareable revenue due to them," and asked the court to restrain the RMFAC from using the act as basis for a new formula for revenue sharing from the Federation Account (Ige 2004). The 22 state governors argued that the Act amounted to a "legislative judgment" through which the National Assembly ceded or gave away "the seaward boundaries of Nigeria to the littoral states" (Ige 2004) in violation of the Supreme Court's judgment. They further claimed that the National Assembly's action violated not only the provisions of the 1999 Constitution, but also other extant rules on the issue, including the Territorial Waters Act[80] and the Exclusive Economic Zone Act (Ige 2004).[81]

As expected, the demands of the governors of these 19 states to reinstate the dichotomy through the courts elicited harsh criticism from the Niger Delta. According to Edwin Clark, the deputy national leader of the South-South People's Conference (SSOPEC):

[80] Cap 428 LFN 1990 defines the Territorial Waters of Nigeria as "every part of the open sea within twelve nautical miles of the coast of Nigeria (measured from low watermark) or of the seaward limits of inland water."

[81] Originally enacted by a military decree in 1978, the Exclusive Economic Zone Act vests in the federal government the "sovereign and exclusive rights over exploration and exploitation of the natural resources of the sea bed, subsoil and superjacent waters of the exclusive zone" (Federal Republic of Nigeria 1978).

> We are not even happy with the judgment of the Supreme Court on the matter because it did not address the onshore-offshore dichotomy issue properly in the context of true federalism but what President Obasanjo did in signing the abrogation bill was to palliate a judgment that was clearly reflective of injustice and inequity. We merely accepted it to the extent that it tried to redress the injustice that we saw in the judgment. How can they now be saying that they want the dichotomy back?. (Amaize, Yakoob, Onah, and Okhomina 2004)

However, in December 2005, the Supreme Court dismissed the case instituted by the 22 non-oil-producing states. The justices argued, in what appeared to be a contradiction of their original ruling on the case in 2002, that the National Assembly had the right to enact the legislation (Suberu 2008). Suberu (2008) argued that the inconsistency displayed by the Supreme Court justices was not misplaced, but that it "underscored the Court's willingness to abandon a rigid adherence to the constitutional principle of federal ownership of natural resources for the larger goals of interregional accommodation and conflict mitigation in the Niger Delta" (Suberu 2008).

Suffice to say that, while the Supreme Court ruled against the case instituted by the 22 landlocked states, the issue did not die there. It resurfaced in 2012, when two northern state governors, including the Chairman of the Northern Governors Forum (NGF), the umbrella body of northern state governors, argued that the states in the north were unfairly treated in the offshore deal and asked for its review:

> There is also the issue of the continental shelf, i.e. offshore oil revenue which belongs to all Nigerians, not the contiguous states. The Supreme Court even affirmed this principle but someone went and bribed the National Assembly to merge onshore with offshore oil revenue. So we are questioning that if it means going back to the Supreme Court (Jega 2012).

Rabiu Musa Kwankwaso, the governor of Kano, also voiced the need to revisit the offshore compromise:

> You see if you have gold in your land and you are claiming certain percentage to be paid to you, one can understand that. But if you have oil wells 200 nautical miles away from your land and you are claiming that that well is your own, I don't think that is correct (Daily Trust, August 26, 2012).

Following the rising opposition by governors of states in the north to the offshore deal that was considered settled, and reactions from governors in the oil-producing states leading to bitter wars of words, the federal government had to deliver strong reprimands to those who were clamouring for the revisiting of the political compromise and "those reinventing a controversy" that the deal would not be revisited (Sahara Reporters 2012).

7.7. Conclusion

This chapter provides a process tracing of conflict over offshore oil in both federations. This chapter serves as a background to the comparative analysis of these two cases in the next chapter. The chapter highlights the distinctive nature of offshore mineral resource rights, traces the international evolution

of offshore mineral rights within the context of international practice and law and the specific impact of this development on domestic contests for these rights in these federations, and describes the various ways offshore mineral rights contests are influenced by distinct design of federal institutions, political practices, and pressures or incentives from federal society.

CHAPTER 8

OFFSHORE OIL CONFLICT IN CANADA AND NIGERIA: A HISTORICAL INSTITUTIONALIST ANALYSIS

8.1. Introduction

Building on the previous chapters' case studies of offshore oil conflicts in Canada and Nigeria, this chapter compares and contrasts similarities and differences in conflict dynamics between these two countries. My contention here is that while the normative federalist principle of solidarity shaped the convergence in political compromises that occurred in Canada and in Nigeria following their respective judicial decisions, the interactions of the specific federal institutional design over oil and the dominant idea of federalism were generally decisive in shaping conflict dynamics. These dynamics include specific conflict behaviours and outcomes, including patterns of conflict resolution, over a long-term period, with attention focused on patterns of conflict ebbs, flows, nuances, and ambivalence between and within these federations.

The similarities between Canada and Nigeria regarding the salience of federal solidarity can show us what is unique about federalism and federations in general. In the offshore policy field, international laws and practices confer or allocate jurisdictional rights to the central government in most countries, and specifically to the federal government in federations (Anderson 2012). These international law norms and practices were affirmed by the Supreme Courts in Canada and Nigeria. However, following the Supreme Courts' rulings, which affirmed the federal governments' proprietary and legislative jurisdictions, political settlements ensued that eventually led to the reallocation of competence in which some of form of authority was diffused to the constituent governments.

Thus, in both Canada and Nigeria, the claims of provincial/state governments over offshore oil led the federal governments to 'abandon' their legal/constitutional victories and embrace a political renegotiation of constitutional rules in a way that, in turn, led to a redefinition of authority relationship over offshore oil without complete alteration of formal constitutional rule. These developments demonstrated that constitutions, and their designs, are not cut and dried instruments, but rather, are 'incomplete' contracts (Rodden 2006) or "unfinished business" (Simeon, cited in Owram 1991, 23), because they do not "specify a decision-plan for all future contingencies" (Finer, Bognador, and Rudden 1995, 39), and hence may need to be changed to meet the (changing) needs of the federal society. Yet, because a "key purpose of a federal constitution is to establish a stable framework of fundamental law that enables federalism and democracy to work peacefully and effectively over the long run" (Kincaid 2005, 412), many federations have designed their constitutions with stability in mind. Thus, constitutions often contain clauses intended to make changes more difficult, such as requirements for "supermajority

vote in the legislature" (Kincaid 2005, 418), or the incorporation of provincial/states "government aggregations as well as population-based aggregations" (Bednar 2013, 279).

Given the general proclivity of framers of federal constitutions to "establish multi-generational stability," albeit "without rigidity" (Kincaid 2005, 417), efforts to institute political settlements in Canada and Nigeria were carried out through 'incremental changes,' in varying degrees of adjustment. In institutionalist terms, the political compromise can be encapsulated in Greif and Laitin's (2004, 640) mechanism of "institutional refinement," which takes place when "new institutions organically evolve (or are intentionally designed) through changing, introducing, or manipulating institutional elements while supplementing existing elements (or responding to their failure to generate desired behaviour)." The "cognitive, coordinative, and informational content of institutionalized rules and the nature of other institutional elements such as beliefs and norms as properties" (Grief and Laitin 2004, 639) often militate against wholesale endogenous institutional changes. Thus, institutional refinement does not lead to "complete departure from the past" and hence the new institutions created are not 'new' in the true sense of the word (Greif 2006, 194-95). Alternatively, the pathway of change or political compromise could also be described as a mechanism of "conversion," which, according to Thelen and Streek (2004), takes place when institutions are transformed to serve new goals with traces of the original designs of the institutions. Streek and Thelen (2005, 26) noted that institutional conversion occurs "through political contestation over what functions and purposes an existing institution should serve," with the "political contestation driving change through conversion…made possible by the gaps that exist by design or emerge over time between institutionalized rules and their local enactment." Such gaps emerge, or are designed, as a result of institutional limits or unintended consequences, ambiguous rules and the political contestations as well as compromises that result, strategic behavior of political actors aimed at (re)directing institutions to serve their interests, and the time factor that creates "changes in the nature of the challenges actors face or in the balance of power" and in turn gaps that necessitate recourse to institutional conversion as a coping mechanism (Streeck and Thelen 2005, 26-29). In the cases described in this study, conflict arising from the ambiguity of rules concerning Canada's and Nigeria's offshore domains precipitated political contestation, and in turn, political compromises (Streeck and Thelen 2005; Mahoney and Thelen 2010).[82] These compromises were characterized by the redirection of institutions toward new purposes outside of formal constitutional change; however, this process was more refined in Canada than in Nigeria.

Indeed, the Canadian political settlement also involved the creation of new institutions and institutional arrangements that Clancy (2011, 18) described as a "curious institutional hybrid" characterized by joint

[82] The federal government's destabilization of established authority relationships over oil, and its assumption of de facto ownership and control of oil through the National Energy Policy (NEP), which it promulgated in response to the international crises of 1979-80, is another case in point.

management regimes and revenue sharing between federal and coastal provinces in the East Coast. The institutional conversion regarding offshore mineral rights in Canada also involved an additional mechanism of gradual institutional change, known as 'layering,' that is defined by "the construction of new institutions alongside similar existing institutions" (Rocco and Thurston 2014, 37). Here, the existing primary authority of the provinces over onshore resources was partially transferred to the offshore realm; it was a partial transfer because the conversion process did not involve ownership rights. In addition, new institutions were created by way of management boards; some of these include the Canada-Newfoundland Offshore Petroleum Board [CNOPB] and the Canada-Nova Scotia Offshore Petroleum Board [CNSOPB]. To institute this design, both the federal and provincial governments enacted mirror legislations (Clancy 2011). Streeck and Thelen (2005) argue that layering demonstrates reformers' willingness to "work around those elements of an institution that have become unchangeable" (23). Layering was an innovative institutional logic to reflect the provinces' concerns in the offshore domain while simultaneously upholding the federal government's jurisdictional rights. This was especially true in the case of Newfoundland, which maintained its offshore presence by controlling the pace and impact of offshore exploration and exploitation, by issuing permits and enacting regulations like those of the federal government (Blake 2015; Clancy 2011). In other words, through layering, "novel and intriguing institutions" were designed to transcend the "series of dialectical compromises" involved in the evolution of the Canadian offshore industry characterized by "deep-seated political differences over offshore ownership and jurisdiction" (Clancy 2011, 117).

As noted above, and as the previous chapter underscored, in spite of the convergence or common experience regarding, there were differences in conflict dynamics: the nature of claims made by provinces and states and the degree of concession that they were able to extract from the federal government, the degree of conflict intractability, and the mechanisms of conflict resolution. My working hypothesis is that while the generic federal principle of federal solidarity influenced political settlements over offshore conflict in both federations, federation-specific differences in allocation of authority over oil[83] and the norms of federalism are central to differences in conflict dynamics over offshore mineral resources. In other words, the differences illustrate how particular federal institutional designs and ideas interact with other idiosyncratic properties to shape distinct conflict patterns. Differences between these offshore cases therefore enable us to better evaluate continuity and change in federal relationships and the processes of power re-balancing in federations. In short, *conflict dynamics can provide a guide to an understanding of the operation of each country's federalism and their (changing) patterns over time*.

[83] I refer here to formal constitutional-institutional rule over onshore oil in Canada, since there is no such explicit rule for offshore oil; and to formal constitutional-institutional rule over offshore oil in Nigeria, where this rule originally existed, but was not provided for in the 1999 Constitution.

Federalism, as used for this study, is not just about formal institutional designs such as those allocating powers over oil, but also normative ideas about federalism and the behavioural and institutional self-interests of governments. This perspective aligns with Livingston's (1952, 88) argument that "it is the operation, not the form, that is important; and it is the forces that determine the manner of operation that are more important still." Thus, as I will demonstrate later, federal institutional design and ideas are part of the story, albeit decisive parts. Other factors relating to federal society and political practices that interact with federal institutions, both formal and informal, are also important in conflict dynamics. The goal of this chapter, therefore, is to explain the processes by which this interaction occurs, paying close attention to the contextual forces and factors that influence the operation of federalism related to distinctive political practices, such as the key political institutions of intergovernmental bargaining (executive federalism in Canada and executive-legislative channels in Nigeria), and the configuration of mobilization of offshore oil conflicts and resolutions. The binding framework for the analysis is historical institutionalism, which allows for a persuasive explanation of conflict dynamics in the offshore policy field, in which the temporal dimension of the development of international institutional rule over the offshore domain and the embedding of these rules in domestic federal design are key in understanding conflict dynamics. The study also acknowledges, among other factors, the role of different historical pathways, including the legacy of earlier institutional designs for onshore oil, the timing of offshore oil development, and friction or alignments between international institutional rule on offshore mineral rights and domestic design allocating power over oil, in the development of conflict dynamics.

The chapter first summarizes the historical institutionalist position and its utility as an analytical framework for the chapter. The next section summarizes the convergence in conflict resolution, pointing to the central role of the federal principle or the idea of solidarity following the judicial interpretations of the cases in favour of the federal governments. This is followed by a brief overview of the three dimensions of differences in conflict dynamics as they apply to Canada and Nigeria. The third section provides an analysis of the pathways or mechanisms of the three dimensions of differences in conflict dynamics, using the study's key explanatory variables of institutional-constitutional rule (emphasizing the conflict that arose from the different incentives for claims provided for political actors representing the provincial/state and federal governments by institutional ambiguity regarding offshore rule as well as the idea of federalism), the dominant political mechanism for intergovernmental bargain in these federations, specifically Canada's executive federalism and Nigeria's separation of power federalism, and social diversity, including pressures from social forces.

8.2. Explaining Distinct Conflict Dynamics over Offshore Oil: Understanding the Divergent Influences of Historically-Constructed Institutions, Ideas, and Interests

While the central role of federalism as a generic principle shared by different federations can lead to a convergence of behavior, as seen in the political compromise referred to above and explained later, the practical iteration of federalism as a contextual phenomenon that operates within specific institutional-ideational, social, and political milieux would also lead to divergences in conflict dynamics, irrespective of whether these federations are 'most similar' or 'most different' ones. The historical institutionalist framework would help us to better explain how divergent federal institutional designs and norms, social pressures, historical experiences, and political practices influence conflict over offshore oil. For instance, historical institutionalists discuss ways in which tension between different layers of an institution or policy field can lead to continuity or change (Lieberman 2002). Taking offshore oil and onshore oil as two different layers of the oil policy field, what is the influence of the authority relationship already established for onshore oil, which developed earlier, on contestations over offshore oil, which developed later? In other words, how do earlier institutional rules over onshore oil later shape normative expectations and political behaviours of elites over offshore oil? Unlike onshore oil conflicts, the conflict over offshore oil occurred during democratic periods in both Canada and Nigeria, though in the latter case, the conflict coincided with Nigeria's transition to democratic rule after over 15 years of military rule. How does the timing of democracy affect mobilization over oil in Nigeria, and how does the electoral incentive of regime change - in this case, change from one democratic regime to another - affect conflict dynamics in Canada? In addition, though a key unique attribute of offshore oil is, as Peter Clancy noted, its "relative late-arrival to the staple trade," which "means that its regulatory regimes have been infused with social policy concerns that were not present in the formative eras of terrestrial petroleum" (Clancy 2007, 113), the experience of the offshore domain has varied in different countries due to each country's distinctive geographic locations/features and coastal resources. For instance, compared to Nigeria, Canada's coastlines are reputed to be "the longest of any country in the world" (Head 1968, 132). The influence of geography on the historical development of offshore resources can, in turn, shape disputes over those resources, such as the attitudes of the orders of government toward offshore resource development. Generally, therefore, the differences in historical pathways of offshore development allow me to test the second assumption of this thesis, which is the salience of history: contingent events such as economic crises and shocks, changes in government, or timing of democratization, in addition to the patterns of evolution of offshore resource development noted earlier, on conflict. This focused comparative case study allows us to explore these issues more explicitly, providing explanations of the mechanisms by which federal rules (including formal design and informal rules) interact with other salient factors and forces in these to shape conflict dynamics.

The concept of conflict dynamics that I discuss here offers better explanations of conflicts as complex processes with different dimensions that unfold over time than the traditional models of conflicts as "static, individual events" (Northrup 1989, 59) generally measured in terms of intensity or violent outcomes such as insurgency. While intensity can be a useful lens through which conflict can be

understood, a two-dimensional view of conflict solely in terms of intensity in which conflict is either violent or non-violent does not adequately capture the nuances, interactions, and ebbs and flows of conflict. By contrast, my conception of conflict as a complex multidimensional process allows us to trace and observe how participants at both levels of government respond, adjust, and adapt to changing contingencies, formal institutional designs, ideas, norms, and interests and preferences of citizens and governments. I refer to these multidimensional ebbs and flows of conflict and the mechanisms through which they occur as conflict dynamics.

While the analysis of conflict dynamics is situated within a historical institutional understanding of political processes of continuity and change that gives primacy to the role of institutions (both formal and ideational) on shaping political outcomes, it also acknowledges the role of political action or the "strategic power of interested actors to use institutions…purposefully to pursue their interest" (Petersohn, Behnke, and Rhode 2015, 627). A useful model for the study of conflict dynamics is to regard institutions not merely as coordinating mechanisms that allow actors to cooperate in order to obtain joint gains, but more as structures "underpinned by power politics and fraught with distributional implications," thus making them deeply political and contested (Thelen 2010, 55). The view of institutions as "distributional instruments laden with power relations" (Mahoney and Thelen 2010, 8; Thelen 2010) helps provide explanations of institutional change and stability in which agency and, by implication, political contestations are given greater analytical roles (Immergut and Anderson 2009, 357). A focus on power in turn brings politics back into historical analysis. Earlier literature on historical institutionalism that downplayed the role of politics attributed changes to a "path-dependent process in which political actors seemed almost to be onlookers in a self-reinforcing process" (Immergut and Anderson 2009, 356). Seen from this perspective, path dependence is a "decidedly political process," as "the style of political contestations" is the "mechanism that links [actors'] competitive strategies to institutional structures" (Immergut and Anderson 2009, 357) is what sets the divergent paths for political conflicts in different societies. In this sense, "political contestations set policies on a specific 'path' but the steps on that path are continuously renegotiated in an ongoing political process" (Immergut and Anderson 2009, 357). Yet, it should be remembered that the political action is itself largely influenced by constitutional rules, or lack thereof. While politics does sometimes trump federal institutional rule, as Anderson (2012) has noted, it is also the case that "the interests that come to be expressed in politics are shaped by...institutions. Indeed…institutions may even affect whether these interests come to be expressed at all" (Immergut and Anderson 2009, 348) or whose interests are expressed. In short, institutions play important roles in "mediating between individuals and the politicized visions and organizational forms of their interests" (Immergut and Anderson 2009, 348).

Thus, rather than privileging one explanatory factor over others, the approach on which the following analysis builds explores the historical coevolution and mutually constitutive interaction between formal

institutional designs, ideas, and actors (agency) or interests (Beland 2005; Jackson 2010). Institutional processes, or the contexts of action of institutional development, are the outcomes of the interactions of institutions and agency within their historical contexts. Accordingly, it is only by viewing political outcomes as the effects of the interaction of various historical factors that we can gain fuller knowledge of how factors such as contingency, sequence and timing of events, critical junctures, and path dependence affect those outcomes. We can also examine the influence of the interests and incentives of participants within institutions, such as prime ministers or premiers, as well as the ideas they hold or that are embedded in their institutions. These ideas may change or persist based on preference formation and political contestations of constitutional design such as those allocating authority over oil. Attention to the interface between institutions, ideas, and interests is the eclecticism of historical institutionalism that Immergut and Anderson (2009, 352) discuss.

The eclecticism of historical institutionalism is also important to this study due to its attentiveness to the role of history, continuity, and change, including exogenous changes through critical junctures and endogenous changes through friction between ideas and institutions (Lieberman 2002) or institutional layers of a policy area (Orren and Skowronek 2005; Streeck and Thelen 2005). The analytical insight of historical institutionalism is valuable because of its focus not just on formal and informal institutions, but of the value of studying institutions with explicit sensitivity to timing, sequence, evolution of institutions—institutional emergence, change, and continuity—and the conflicts that arise over these processes.

8.3. Patterns of Similarities and Differences in Offshore Oil Conflict: Between Federal Solidarity and Contestation

Offshore oil conflicts touch upon the core of the idea of federalism as a formal design and idea: the question of ambiguity of institutional design and the tension between self-rule and shared rule. In both Canada and Nigeria, court decisions concerning oil conflict proved to be critical junctures as those conflicts spread from the judicial to the political sphere, even though the role of the judiciary did not end with the first judicial decisions in 1967 in Canada and 2002 in Nigeria.

8.3.1. Judicial Settlements and their Limits

While as Russell (2017, x) noted, "ultimately, the most important function of the judicial branch of a federal government is to ensure that the federal state is a constitutional state," and that "without a judiciary strong enough to protect the powers of governments…federalism cannot have much reality," the question of whether or not to approach the court in a dispute between levels of government in a federation is a deeply political one. In the cases of offshore oil conflict, Russell (1987) pointed out that Prime Minister Lester B. Pearson's decision to refer the dispute over offshore mineral rights with British Columbia to the Supreme Court of Canada in 1965 while negotiations were ongoing was to strengthen the federal government's bargaining position. Similarly, in Nigeria, the federal government approached the Supreme Court of Nigeria for an interpretation of Section 162 regarding whether the derivation rule should apply to oil production from offshore resources. At the time, discussions of the federal government's refusal to pay the offshore component of the derivation fund were still ongoing, and the federal government had dissuaded the state governments from approaching the court for settlement. Russell (1987, 22) argues that:

> The decision to approach the court by either of the order of government is based on that government's assessment of previous judicial decisions and on estimates of future judicial trends. While Supreme Court decisions rarely settle federal-provincial conflicts, they are an important factor (but only one factor) in influencing the ever-shifting balance of power between the two levels of government in Canada. The extent to which governments use their constitutional assets depends on their political will and power and their economic resources.

The provincial and state governments generally were averse to judicial settlements and favoured political resolutions rather than judicial arbitration. Thus, the premiers and governors criticized the federal governments' references to the courts. In Canada, for example, the Newfoundland cabinet criticized the *Reference re Newfoundland Continental Shelf, 1984,* also known as the Hibernia Reference. The federal government's decision to refer this case to the Supreme Court of Canada infuriated Premier Brian Peckford and the members of his cabinet. William Marshall, the Newfoundland Energy Minister, noted that "the government of Canada has pre-empted a reference by a provincial government on a constitutional matter by going directly to the Supreme Court of Canada" (Newfoundland House of Assembly 1982, 1026) thus bypassing Newfoundland's own referral in its provincial Court of Appeal. Some members of the Progressive Conservative Party of Newfoundland and Labrador, the ruling party at the time, further believed that the federal government had instituted the case in the Supreme Court in hopes of a judgement in its favour (Newfoundland House of Assembly 1982). Marshall characterized the federal government's decision as "a hostile act of aggression which one would more appropriately expect from an unfriendly alien power than from the national government of our own country" and "a land grab by the Central Government of Canada" (Newfoundland House of Assembly 1982, 1028). He did not believe that the federal government's action represented the "wishes

of all Canadians" and affirmed his opinion that "eventually the court of public opinion… will supervene" the federal government's action (Newfoundland House of Assembly 1982, 1028).

When Prime Minister Pearson made his decision known that the federal government would approach the Supreme Court for interpretation over sovereign rights of offshore minerals off the coast of British Columbia, the provinces accused Ottawa of breaking an agreement to continue negotiations while each side would maintain the status quo in the interim (*Ottawa Journal* 1965). Premier Lesage of Quebec called the prime minister's grant of exploration permits in the Gulf of St. Lawrence a "shock tactic" and argued that the prime minister's unilateral action in approaching the courts would undermine confidence in first ministers' conferences; therefore, he vowed to scuttle any resolution of the conflict in other ways than negotiation (*Ottawa Journal* 1965). According to Lesage, "we can't recognize the authority of the Supreme Court in this matter…This is a political question, not a legal or juridical question, we have our rights and we are going to exercise them. I won't allow anybody to mix in my business!" (*Ottawa Journal* 1965). In 1967, British Columbia refused to accept a Supreme Court decision that favoured the federal government (Jackson 1989, 31-32). Like Premier Bennett of British Columbia, Premier Lesage also refused to recognize the verdict (Jackson 1989), but for an additional reason beside the premiers' general consensus that, as a political matter, the dispute should be resolved via negotiations. As Head (1968) and Russell (1987) noted, for Quebec, the verdict was also linked with the province's constitutional struggle, with Premier Lesage arguing that the decision confirmed Quebecois fears that the Supreme Court of Canada would not protect the province's constitutional rights (Russell 1987, 179).

In Nigeria, the states protested the recourse of the federal government to judicial interpretation of offshore revenue rights. According to Ologbodiyan and Julius-Onabu (2001), "the governors expressed their displeasure with the [federal] government for going to court over resource control, noting that this step would make a purely political matter a legal one with dire consequences for all." In fact, the states denied any basis for a constitutional interpretation of the offshore oil question by the Supreme Court, arguing that the reference should be struck because they had no dispute with the federal government. However, the Supreme Court reminded them that their claim that the federal government refused to pay them revenues from offshore oil production amounted to a conflict.

8.3.2. Political Settlements and the Salience of Federal Solidarity

For their parts, the federal governments of both Canada and Nigeria, believing that legal decisions would be in their favour, were determined to affirm their jurisdictional rights over offshore minerals as a prelude to any political negotiation, thus maintaining that, even before the cases were referred to the courts, judicial determination would not be the final word (Head 1968; Beauchamp, Crommelin, and Thompson 1973; Uwujaren and Ebelo 2001). Accordingly, following legal decisions that affirmed the

federal governments' exclusive legislative and proprietary jurisdictions over offshore resources, political settlements ensued that eventually led to the reallocation of some form of authority to the state or provincial governments. The significance of the 'political settlement' is considerable given that in both federations, the courts affirmed that jurisdiction over offshore resources was an exclusive federal government competence.

In Nigeria, the speedy and unanimous passage of the onshore/offshore abrogation points to the solidarity that is at the core of the federal principle of shared rule. Indeed, as Umar Na'Abba, Speaker of the House of Representatives (HoR) at the time, pointed out, "the onshore-offshore dichotomy bill was speedily passed because the House could not sit down and see the people of any section of the country suffer" (Nkanga 2002). The unanimity of support that the bill received demonstrated the desire of lawmakers representing the non-oil-producing states in the National Assembly (NASS) to give up some of the benefits that should have accrued to their states from oil to the producing regions, in the spirit of fairness and equity. The relevance of this compromise is stark, considering the number of lawmakers from the littoral states in the NASS as compared to the number of lawmakers from non-oil producing states. The imbalance would have limited the degree of manoeuvrability required to have the bill initiated and passed without support from the majority members from non-oil-producing states. As Aluko (2002) noted, the littoral states consist of "24 out of 109 Senators (22%) and 87 out of 360 National House of Representative members (24%). Thus, in general, they are a one-quarter to one-fifth-clout region, and their political maneuverability in passing laws must be realistically evaluated within those numbers." Given this reality, opposition from the non-littoral states would have stalled the passing of the bill in the NASS. Yet, in spite of the odds against the littoral states, federal lawmakers from the non-littoral states rallied around their colleagues from the littoral states, and muted the regional, state, and partisan interests that they represented in order to achieve the common goal of legislating to further the interest of a section of the country that they felt needed the support of the whole country.

The particular ways institutional rules were reconfigured in these similar scenarios differ, as we shall see later. Even so, in both Canada and Nigeria, political settlements that reflected the complex balance between shared rule and self-rule, between unity and diversity, ultimately shaped the contours of the existing rules governing offshore mineral rights, within the bounds of constitutional norms and without formal constitutional amendments. The fact that the beneficiaries of these compromises were 'small' provinces and states[84] was a powerful demonstration of the commitment to social solidarity or compact, which "means partnership, mutual aid, and protection regardless of which part is stronger or weaker"

[84] While Lagos, the second-most populous state in Nigeria according to the 2006 national census, is one of the littoral states, oil was not discovered off its shores during the period of the offshore oil conflict. Thus, only the oil-producing and littoral states in the Niger Delta, which are territorial minorities, stood to benefit from offshore oil concessions at the time.

(Hueglin and Fenna 2015, 51). Thus, both cases featured pragmatic and flexible political behaviours that deviated from adherence to rigid constitutional rules and doctrinaire federalism. Carl Friedrich describes such a pragmatic deviation as the hallmark of the federal spirit that is central to the maintenance of federations:

> In successful federal regimes, there develops in time something that has been called the 'federal spirit' or 'a federal behavior.' It is a highly pragmatic kind of political conduct, which avoids all insistence upon 'agreement on fundamentals' and similar forms of doctrinaire rigidity. Such behavior proceeds in the spirit of compromise and accommodation. It is molded by the knowledge that there are many rooms in a house that federalism builds. (Friedrich 1968, 39)

The similar experiences of Canada and Nigeria, as noted above, both fulfill the normative expectation of federalism or federalist political culture from a liberal credo that is underscored by what Elazar calls a "basic commitment to power sharing, some notion of political restraint" (1987, 247). However, matters are not always so simple. The next section outlines how the commitment to federal values was tempered, before and after the settlement, by distinctive federal institutional designs, norms over natural resources, and politics of federalism, as well as historical contingencies linked to the divergent historical evolution of these countries.

8.3.3. Tension between Federal Solidarity and the Politics of Federalism: Contested Federalism and the Divergence in Conflict Dynamics

The following discussion highlights differences in the process and outcome of conflict and political compromises in the two federations. It focuses on three dimensions of conflict dynamics: (i) differences in the degree of assertiveness of claims made and the degree of concession won by the provinces/states; (ii) differences in the degree of conflict intractability or protractedness; and (iii) variations in the nature of intergovernmental coordination. I refer to these three divergences in conflict behaviour and outcome as the dimensions of conflict dynamics, and offer explanations from an analytical framework of historical institutionalism.

8.3.3.1 Assertiveness of Claims and Concession Won

In Nigeria, the pressures and claims by states for marginal changes to the revenue issue reflected existing institutional realities; conversely, in Canada, the provinces also demanded ownership rights and management control, but eventually dropped their claims to ownership. For these Canadian provinces, especially Newfoundland, maintaining such expansive claims, even after the Court of Appeal of Newfoundland and Supreme Court of Canada's decisions undermining them,[85] reflected their intense

[85] As Cullen (1990) pointed out, while the Court of Appeal of Newfoundland decided that Newfoundland had sovereignty over the offshore zone three miles from the shores, it nevertheless vested sovereign rights over the more lucrative continental shelf in the federal government. The Supreme Court of Canada's decision specifically referred to the Hibernia oilfield, also located in the continental shelf.

conviction that they should extend their ownership rights to the offshore domain, just as the existing rules vested control of onshore natural resources primarily in the provinces. The provinces believed that their claims had the support not only of their own citizens, but also of the broader federal community, including the other provinces.

The substantial concession won by the Canadian provinces through the 1985 Atlantic Accord include management rights or joint management, with the provinces taking up significant management responsibilities in a policy field legally the jurisdiction of the federal government. This accord became a model for the 1986 Nova Scotia Accord, which was a renegotiation of the province's 1982 Accord with the federal government. The concessions also included the provinces' rights to benefit from offshore oil revenues as if the resources were on land, as well as temporary exclusion of offshore resource revenues from the calculation of their share of equalization payments in order to prevent them from losing equalization payments as a result of increases in offshore oil revenues. Without such protection, increases in the provinces' fiscal capacity due to offshore oil revenues would have disqualified them from benefitting from equalization payments. Thus, even though the issue of 'ownership' was set aside in the accords following legal adjudications that affirmed the federal government's sovereign rights over the mineral resources of the continental shelf, Cullen (1990, 193) noted that the accords "demonstrated that, despite the probable legal position, substantial provincial de facto offshore sovereignty and sovereign rights can be obtained through negotiation."

In Nigeria, the states won only a small concession that were restricted to the application of the derivation rule to offshore oil revenues from production that covered only an insignificant part of the continental shelf (Sagay 2004a & b). By contrast, in Canada, the federal government conceded wide authority over offshore oil to the provinces, subject to the federal government's exclusive jurisdictional rights to exploit resources in the continental shelf as affirmed by the courts. This arrangement, established through the Atlantic Accords, gave Newfoundland and Nova Scotia equal participation in regulating offshore oil through their membership on joint petroleum boards: the CNOPB and CNSOPB. Under these arrangements, both provinces and the federal governments have equal powers of decision-making and management thanks to their memberships on the boards. The provinces were also given veto power in regulating offshore oil development (Blake 2015; Clancy 2011). Commenting on the bargaining outcomes over offshore resources, Cullen (1990, 193) made the important observation that the two provinces have "gained in important ways, more than they would have gained had each won in court." This was because the provinces won expansive concessions regarding oil revenues from the adjacent continental shelf similar to the one "the award of sovereign rights thereover would have afforded them" (Cullen 1990, 193), and also had these revenues protected for a period of time from equalization clawbacks. In addition, they also were afforded joint management/control rights over offshore

development, and the federal government made bulk contributions to an infrastructural fund instituted for offshore development (Cullen 1990).

Prior to and during the offshore oil litigation process, the Nigerian littoral states demanded "resource control," an expansive claim over oil and other natural resources, encompassing ownership, control, and revenue rights. However, the federal government offered these state-incorporated companies licences for marginal oil fields, which the states perceived as a form of resource control (Nigerian National Petroleum Corporation and Academic Associates Peace Works 2004). Furthermore, the probability of effecting constitutional change granting mineral resources to the states was slim, due to the veto power that the non-oil-producing states in the north held in the National Assembly. This difficulty was brought to the fore when a bill proposed by Temi Harriman, aimed at vesting exclusive proprietary and legislative powers over oil in the states rather than the federal government as stipulated by the 1999 Constitution, was defeated in the HoR in 2001 (Aiyede 2002; Sagay 2001). Recognizing this constitutional hurdle, Governor Duke of Cross Rivers toned down expectation of their campaign for resource control when he stated that "when we have worked this [constitutional hurdle] out, we shall make things clear, but its currently a mere statement of intent" (cited in Elaigwu 2012, 116).

Although the oil-producing states considered the court decision and the initial settlement unfair, politicians representing those states did not oppose the final settlement; thus, it could be concluded that they found it satisfactory. Representatives of ethnic groups, community leaders, and militant groups in the Delta did criticize the settlement, but the states concerned seemed to accept it, or at least took the compromise as the best they could get under existing institutional rules. The series of 'Thank You' messages sent to the president by the states after he abrogated the onshore-offshore dichotomy in 2004 and the 'thanksgiving' to God in in Akwa Ibom state seem to support this view.[86] The governors of the littoral states also made statements praising and thanking the president. For instance, Victor Attah, governor of Akwa Ibom, was reported as saying:

> I must confess that the government and people of Akwa Ibom State are most and sincerely grateful to Mr. President for this show of honour and explicit display of honesty to the people of Akwa Ibom State and the Niger Delta Region generally. (Alabi, Okafor, and Bassey 2004)

[86] Akwa Ibom state's "celebration to God" for the resolution of the conflict, which was led by Obong Victor Attah, the governor of the state, took place in February 2004, following the NASS' passing of the new bill presented by President Obasanjo agreement for the abrogation of the onshore-offshore dichotomy bill. The passage of the new executive bill (submitted in January 2004) came about one year after the president agreed with the governors of six of the then 8 littoral states to present a new bill following his veto of the bill sent to him by the NASS for assent (Aminu 2004). Following the president's assent of the new bill abrogating the dichotomy, Akwa Ibom state, which has most of its oil offshore, became the leading oil-producing state in Nigeria.

For his part, Governor Lucky Igbinedion of Edo not only praised the president but described the concession as victory for Nigeria and its democracy:

> I want to thank Mr President for finally allowing the will of the people to prevail. With this action, he has shown that he is a listening president. We in the south-south are grateful for this gesture...The abolition of the onshore offshore dichotomy is a victory for all Nigerians. It is a victory for democracy. It is a victory for justice and equity. With this, we can now look forward to some respite and real development in the Niger Delta. I can assure you that with this abrogation, there will be some measure of peace in the Niger Delta. (Okpowo 2004)

8.3.3.2. Degree of Conflict Intractability

'Conflict intractability' refers to the degree to which conflict was resistant to resolution or protracted (Azar 1985; Campbell 2003; Northrup 1989; Sahadevan 1997). Canada, in general, has a higher degree of intractability than Nigeria. Unlike conventional understanding in the field of conflict and conflict resolution (Campbell 2003; Northrup 1989; Sahadevan 1997), I do not assume that intractable conflict ultimately leads to violence. Even so, I accept the argument that intractable conflict evolves over time rather than occurring in a fixed sequence, and in its ebb and flow, conflict can escalate or de-escalate (Northrup 1989, 58).

The longevity of conflict is an important measure of intractability used for this study. Offshore oil conflict in Nigeria lasted from 2000, when the offshore revenue dispute arose, to 2002, when the Supreme Court of Nigeria ruled on the onshore/offshore abrogation reference deposited by the federal government in 2001. In 2005, the *Attorney-General of Adamawa State & 21 Others v. the Attorney-General of the Federation & 8 Others*, a reference of the 22 non-littoral states to challenge the 2004 concession granted to the littoral states, was dismissed by the Supreme Court. A 2012 attempt by some non-littoral states in the north to revive the issue was rebuffed by the president, so that this did not escalate into a conflict. In Canada, on the other hand, beginning from 1967 when the Supreme Court decided on the *Reference Re: Offshore Mineral Rights* or British Columbia Reference, conflict entered a spiral cascade until 1985, when an accord was reached between Ottawa and Newfoundland, with a renegotiation of the 1982 accord between Ottawa and Nova Scotia occurring in the following year. However, oil conflict in Canada has been going on longer than the above reference suggests: in 1949, British Columbia first issued permits for offshore oil resource exploitation, and both the province and the federal government concurrently offered permits to oil companies. There were several unsuccessful attempts to resolve the dispute via negotiations, especially in the 1960s, before the federal government deposited its reference with the Supreme Court (Caplan 1969).

Disagreements over control of the pace and method of offshore resource development, particularly between Newfoundland and the federal government, were central to the intractability of conflict during this period (Blake 2015, 158; Martin 1975). The Trudeau government had expected that winning the case

of the British Columbia Reference would bolster its bargaining power, enhance its ability to rebuff further pressures from the Eastern provincial governments, and set the terms for negotiated settlements. Yet, provincial resistance, combined with other contingent events, made conflict resolution difficult. Thus, a decade after the Supreme Court of Canada's decision on the British Columbia Reference, the federal government's proposal for political settlement, reflected in the 1977 Memorandum of Understanding with the three Maritime Provinces of Nova Scotia, New Brunswick and Prince Edward Island, collapsed, following the withdrawal of Nova Scotia from the agreement. Nova Scotia had entered into an agreement with the federal government in 1982, which Newfoundland regarded as a watered-down version of its own proposal that left veto power over the management board with the federal government. While Prime Minister Trudeau thought a deal with Nova Scotia would pressure Newfoundland to sign a similar agreement (Blake 2015), Newfoundland continued its efforts even after two court cases in 1983 and 1984 affirmed the federal government's sovereign rights over the continental shelf (Gault 1985; Pollard 1986). The federal government reached agreements with Newfoundland in 1985 and Nova Scotia in 1986, but the realization that the provinces would not be the 'principal beneficiaries' of offshore oil revenues under these agreements led to another round of conflict in the 2000s. This conflict was linked to fiscal equalization, including changes to the treatment of oil as the measurement of a province's fiscal capability.

8.3.3.3. Variations in Nature of Intergovernmental Coordination

In his discussion of macroeconomic adjustments between countries, Michael Webb (1995, 11) defined coordination as "negotiated mutual adjustment that causes states to pursue different policies than they would have chosen had policy-making been unilateral." For federations, which are simultaneously characterized by divided powers or self-rule and interdependent or 'multi-level interaction' (Bolleyer and Thorlakson 2012), coordination is an appropriate mechanism to strike a balance between the forces of autonomy and interdependence. Also, coordination of adjustments and adjustment strategies is necessary to keep conflicts manageable, whether they arise from vertical interactions between federal and state governments, or between state governments themselves. The nature of intergovernmental coordination in a federation can therefore reflect the nature of conflict over institutions and ideas, the dominant idea of federalism in the federation whether shared or self-rule, and the power relations between federal and provincial or state governments. Eberlein and Doern (2009, 405), argued, following Scharpf (1997), that the coordination mode "prevalent in a given multi-level system depends on the 'constellation of actors' (players, preferences, options, and strategies) and the material and ideational incentives and constraints provided by the institutional setting in which they interact."

The dominant pattern of coordination in Canada was bilateral, between individual provinces and the federal government, and the dispute and settlement processes unfolded on provincial bases (Cullen 1990, i). By contrast, in Nigeria, the pattern was multilateral, between the littoral states as a whole

and the federal government, and the offshore settlement process was not just a centralized form of collective bargaining but also reflected an all-embracing compromise with a national scope applicable to all coastal states. The intergovernmental bargaining mode is also reflected in the litigation pattern. For instance, in Canada, the references did not cover all the coastal provinces, but were related to particular offshore regions. Conversely, in Nigeria, all 36 states were the defendants in the Reference *Attorney-General of the Federation v. Attorney-General of Abia State & 35 Others,* instituted by the federal government. The bargaining process was also multilateral, between the federal government and the littoral states, and the political settlement established broad parameters over all of Nigeria's offshore regions. Accordingly, each reference in Canada was relevant only to the province that was the subject of the reference and the particular offshore region that was the object of the reference. Thus, even though Prime Minister Trudeau had hoped that the British Columbia Reference would be applicable to the East Coast provinces, that this was not the case was evidence of the distinctiveness of each offshore case in Canada.

This is not to suggest, as Cullen (1990) did, that "there had been no attempt to create a national offshore regime" (i) in Canada, if 'national' refers to all the coastal provinces; an attempt was made, but it failed. To be sure, the federal government had entered into a bilateral negotiation with British Columbia over offshore mineral rights after the province established a de facto claim over the shores adjacent to it in 1949. However, difficulties in resolving the issue politically led to an agreement that both parties should approach the court for clarification of their rights (Caplan 1969). Following the Supreme Court of Canada's decision in 1967, which strengthened the federal government's bargaining power, Trudeau announced a proposal in the parliament the following year on revenue sharing with all the coastal provinces. Although he claimed to have written the provinces for suggestion regarding how best to share the revenues (Trudeau 1968), Trudeau's move was a hierarchical one, meant to establish a multilateral or 'universal' all-coastal-provinces structure rather than a bilateral bargaining structure. Blake (2015, 158) described Trudeau's attempt to coordinate a compromise with the coastal provinces over offshore resources as a "unilateral federal declaration, rendered without any consultation, let alone negotiation with the provinces." The multilateral bargaining pattern, under which Trudeau offered terms that would equally apply to the coastal provinces, seemed to have partially succeeded when the federal government and the three Maritime provinces reached an agreement in 1977. However, the collapse of that agreement strengthened the position of Newfoundland, which had earlier opted out of it agreement, and motivated it to pursue an independent negotiation with Ottawa. Before the dominance of bilateral coordination beginning in 1977, multilateral coordination was already on a shaky foundation due to Newfoundland's use of that approach to further its own interests. While Premier Moores of Newfoundland had agreed to work with other provinces through the Joint Mineral Resources Committee (JMRC), which the premiers set up to "agree on a common strategy for the region," fears that the organization "had become little more than a debating club" made Premier Moores doubtful about the

prospect of cooperation with the other eastern provinces in negotiations with Ottawa. This uncertainty led him not to foreclose the option of entering into negotiation alone with Ottawa (Blake 2015, 164). However, by 1973, Premier Moores had officially informed Ottawa and the other East Coast provinces that Newfoundland was prepared to negotiate with the federal government on its own, dismissing the federal government's threats of taking the case to court if Newfoundland refused to coordinate efforts with the other provinces (Blake 2015). In addition, earlier attempts to coordinate the coastal provinces' interests in offshore resources showed promising signs (Blake 2015), with these efforts translating into the joint presentation of their position at the 1964 First Ministers Conference, and the establishment of the JMRC in 1968 to foster cooperation between the provinces. However, the premiers' divergence of interests, including disputes between Newfoundland and Nova Scotia over offshore boundaries, undermined these joint efforts over time.

Admittedly, multilateral coordination is promising, as it "allows provinces…to present common front vis-à-vis the federal government" (Wood 2015, 123), in the case of offshore resources, not least because Quebec, a politically powerful province, had joined the Atlantic Provinces in their demand for offshore rights (Blake 2015). However, the greatest incentive for Newfoundland's decision to adopt a bilateral approach was its conviction that it had the most compelling claim over offshore resources, since it had entered Confederation as a coastal sovereign state, and it is also the province with the longest coastline. In addition, international law on the continental shelf had evolved substantially during that period (Blake 2015; Cullen 1990).[87] Accordingly, Newfoundland felt that banding together to push its claims with provinces that have little stake in offshore mineral rights would jeopardize its own bargaining power, as the degree of tenacity of the other provinces to reject the federal government's offers that Newfoundland regarded as disadvantageous would be minimal. It was believed that other East Coast provinces would simply accept the first attractive offer with little resistance because they had little to lose. This was the case with Prince Edward Island, which, with little prospect for significant oil finds off its shores, accepted the federal government's proposal for revenue pooling between the Atlantic provinces, though it insisted that only the Atlantic provinces should share in those revenues. Also, though Newfoundland eventually dropped its insistence on ownership, as did Nova Scotia, both provinces disagreed over the manner of control. Nova Scotia wanted a joint management board with minimal provincial veto, while Newfoundland was interested in more extensive control and veto that would lead to maximum revenues as well as economic spinoffs to the province in areas such as mineral rights disposition, power to set royalty rates, market crude oil, and veto over the issuance of permits by the federal government (Blake 2015, 166). Newfoundland later proposed a 90-10 revenue sharing formula, and also suggested applying its laws on offshore oil exploration and development similarly to the process for onshore oil resources. The federal government dismissed Newfoundland's proposal and indicated

[87] The Supreme Court of Canada dismissed Newfoundland's claims in the 1984 Newfoundland Reference.

that it was willing to allow the provinces to play advisory management roles while predicating its insistence on federal jurisdiction for offshore development in order to maintain uniform, efficient, and standardized management throughout the country's offshore area, and the enforcement of criminal law and conservation in the offshore zones (Blake 2015).[88]

It was against the background of these differences that the 1977 Memorandum of Understanding was reached between the three Maritime provinces and Ottawa, with Newfoundland opting out. From this period onwards, bilateral negotiations became the dominant mode of bargaining between Ottawa and Nova Scotia, leading to the 1982 accord, the 1985 accord with Newfoundland, and the renegotiation of the 1982 Nova Scotia accord in 1986. The renewal of these accords in 2005 also followed this bilateral mode of coordination.

Consideration of the nature of intergovernmental coordination invites consideration of the mechanisms of intergovernmental bargaining and the pathways of political conflict resolution, whether through formal or informal institutional processes. Before and after the judicial adjudication of the cases, political settlements, as distinct from legal ones, followed two distinct pathways, reflecting the non-federal institutional features of Canada and Nigeria as parliamentary and presidential federations, respectively. Where Canada is a Westminster-type parliamentary federation with fusion of executive and legislative powers, Nigeria is an example of a broad genre of political system ably represented by the US. Kelemen (2004, 66) describes this sort of federation as the "separation of powers federal system," characterized by a fragmentation of power between executive and legislature. These differences in political systems translate into differences in the dominant mechanisms for intergovernmental conflict resolution, with executive federalism emphasized in Canada and the executive-legislative mechanism in Nigeria.

Nigeria's conflict-resolution process was largely formally institutionalized, between the legislative and executive arms of governments, represented by the NASS and the president. This is not to say that other informal activities did not take place; for example, the governors of littoral states coordinated their efforts through the Niger Delta Governors Forum. At the presidential level, President Obasanjo set up a reconciliation committee headed by Tony Anenih, then Minister of Works, who is also from the Niger Delta. This committee was established after the Supreme Court's ruling of 2002 and was tasked with proposing a political solution. The committee's recommendation after several meetings with the governors of the littoral states informed the president's original proposal to the NASS that oil produced

[88] Another disadvantage of multilateral coordination of which Newfoundland must have been aware in its decision to pursue its interests on its own is the potential that some provinces with weaker claims to their offshore region, or without commercial quantities of oil in this region, may settle for fewer concessions. Such a decision could provide them the opportunity to fulfill other interests, but potentially at the risk of jeopardizing collective interests.

from offshore in the contiguous zone of 24 nautical miles should be used as the basis for the application of derivation rules to the littoral states. The formal executive and legislative means of conflict resolution in Nigeria contrast to the equivalent processes in Canada, in which conflict resolutions were accomplished largely via ad hoc First Ministers' meetings, or meetings and communication between the prime minister and the premiers of the relevant province(s). I suggest that Canada's model of executive federalism provides incentives for bilateral modes of coordination, aligning with the conclusion of Eberlein and Doern (2009, 398) that executive federalism "privileges bilateral bargaining between federal level and individual provinces," while Nigeria's executive-legislative mechanism provides incentives for joint coordination. What incentives do these divergent modes of mechanism for intergovernmental bargaining offer for conflict dynamics?

It is likely that the degree of institutionalization and nature of IGRs will offer different incentives for intergovernmental bargaining and negotiation over oil in different federations and different situations, and hence produce distinct conflict patterns. For instance, because IGR structures in Canada are relatively weak, institutionalized bargaining and agreements are subject to the goodwill of First Ministers (Prime Minister and Premiers) in order to implement agreed-upon resolutions. Therefore, norms of cooperation are likely to be more important in federations such as Canada than in those whose mechanisms for IGRs are more formalized. Thus, when these norms, such as norms of trust and cooperation, are lacking or are eroded, the intergovernmental arena becomes more prone to instability and conflict. At the same time, while federations with weaker intergovernmental institutions are afforded some latitude of flexibility and choice to adapt to changing circumstances, these circumstances may also provide particular incentives for intergovernmental collaboration or the lack thereof. For example, in parliamentary federations such as Canada that are characterized by informal and ad hoc vertical intergovernmental activities that are heavily dependent on "the nature of the circumstances and the preference of the particular political actors" (Cameron 2001, 125), government turnovers may alter new political actors' (and their governments') interests and, in turn, their incentives to maintain agreements signed by their predecessors. In addition, the bid to gain short-term advantage may create incentives for politicians to enter into agreements during electoral cycles that are quickly rejected after the elections are concluded. All these mechanisms can and may introduce particular patterns of instability into intergovernmental bargaining. By contrast, an opposite incentive may be generated in presidential systems characterized by constitutional separation of powers, as a result of which IGAs are legislated and agreed upon through formal federal executive-legislative mechanisms (with the legislature fully representing states' interests), which gives these agreements force of law or authoritative decisions. This is not to say that the presidential system offers more prospects for peaceful intergovernmental systems, as this system also generates distinctive challenges to cooperation and conflict resolutions. Indeed, as Bolleyer (2009, 10-11) noted, by compulsorily sharing power between branches of governments, presidentialism "fragments individual governments internally,…weakens the

links between IGAs,…undermines the representation of coherent government units in the intergovernmental arena,…sets incentives for governmental branches to push for their (institutionally defined) interests separately," thereby weakening "intergovernmental integration."

8.4. Explaining Divergent Conflict Dynamics: The Role of Federal Institutional-Constitutional Design and Normative Ideas about Federal Community

8.4.1. Ambiguity of Institutional Rule

I have already alluded to the fact that in Canada, the constitutional silence, and the resulting rule ambiguity over offshore mineral rights, inspired the provincial governments, who had already been firmly established as the owners of terrestrial resources, to extend their constitutional powers to the offshore. Mahoney and Thelen (2009, 11) summarized the impact of rule ambiguity for power-distributional struggles and rule interpretation leading to institutional change as follows:

> Compliance is inherently complicated by the fact that rules can never be precise enough to cover the complexities of all possible real-world situations. When new developments confound rules, existing institutions may be changed to accommodate the new reality. These changes can involve rule creation, or they may simply entail creative extensions of existing rules to the new realities.

Rocco and Thurston (2014, 41) argue "that varying degrees of ambiguity embedded in institutional rules lead to different types of institutional change." The degree of ambiguity thus provided representatives of the orders of government in both Canada and Nigeria with different bargaining strengths in offshore oil negotiations. In Canada, the ambiguity of institutional rule over offshore mineral resources was built into the foundational settlement at the time of Confederation. In Nigeria, such ambiguity was not initially present in institutional rule over offshore resources, but emerged over time. Thus, where Canada's policies are substantially ambiguous, Nigeria's institutional design for offshore oil is moderately ambiguous. Canada's substantially ambiguous institutional rules elicited far-reaching claims and concessions, while Nigeria's moderate ambiguity created incentives for political actors to achieve relatively little concession. Indeed, the degree of ambiguity would have made the federal government hesitant to aggressively stake its own claims over offshore resources in Canada. Thus, even though as Clancy (2011) noted, international law had initially given jurisdiction over offshore mineral rights to the federal government, provincial governments were undeterred and felt confident that they, and not the federal government, had competence over offshore resources. The provinces issued permits to oil companies and officially staked claims over offshore resources through regulations, or politically challenged the federal government, whether individually, as in the case of British Columbia, or collectively, as reflected in the initial joint claim presented by the premiers of the four Atlantic Provinces at the 1964 First Ministers' Meeting. Such acts appeared to claim that the Constitution Act of

1867 did not envisage fragmentation of authority over onshore and offshore natural resources, and indeed is silent on ownership and legislative jurisdiction of offshore mineral resources.[89]

Unlike resources on land, for which the constitution explicitly granted jurisdictional authority to the provinces, no categorical provision was made regarding ownership of offshore resources. To be sure, there were some auxiliary provisions under the Constitution Act that vested the federal government with some powers bordering on the offshore. These include Section 91 (7, 9, and 10) on militia, military and naval service, and defence; beacons, buoys, lighthouses, and Sable Island; and navigation and shipping. The Third Schedule of the 1867 Constitution Act indicated that most of these offshore-related powers originally were "provincial public works and property" that were bequeathed to the Government of Canada at Union. The offshore-related powers of the federal government may be taken to imply federal jurisdictional authority over offshore resources. However, even if this is argument is accepted, such implied but not stated provision pales in significance or weight when compared to the solid constitutional jurisdiction that the provinces were provided over lands and natural resources, as explicitly and expressly stated in section 109 of the Constitution Act and Section 37 of the Newfoundland Terms of Union.

In staking jurisdictional claims over submarine mineral rights on their continental shelves, the coastal provinces were exploiting this constitutional-legal uncertainty. In the joint statement presented by the Atlantic Premiers at the 1964 First Ministers' Meeting, the premiers of these provinces drew on the existing institutional path of provincial rights over onshore oil in order to extend their claims to the offshore field. It is equally probable that the absence of express powers vesting offshore mineral rights in the federal government would have equally frustrated any move by that order to government to decidedly stake its claim, even though international practice, especially following the Truman Proclamation of 1945, had conferred sovereign rights to offshore minerals on coastal countries. The Atlantic Provinces explicitly underlined the opportunity structure resulting from the constitutional ambiguity over offshore mineral rights when they claimed "that the proprietary rights in minerals

[89] This constitutional silence, however, is due to the lack of importance of offshore minerals during the time when the original provinces were negotiating the terms of Confederation. In addition, although they had won responsible self-government, neither the original provinces nor the country that was formed in 1867 was fully sovereign; ultimate sovereignty over them rested in the British Crown during this period. Thus, federalization in 1867 did come with independence for Canada, though it was not fully achieved until 1931, when Canada and other British Dominions, including Newfoundland, which had not joined the federation at this point, were declared as equal in status with the United Kingdom through the Statute of Westminster (Hogg 1977; Martin 1975). It could, however, be argued that full independence was not conclusively won until the patriation of the constitution in 1982, which gave Canada, rather than the UK, rights to amend the constitution, and through which the BNA Act became the Constitution Act. In addition, even after 1931, vestiges of colonial rule still existed in Canada aside from the absence of a fully patriated constitution, particularly the status of the Privy Council as the apex judicial body, a status that was not undone until 1949 (Hogg 1977).

contained in submarine lands belonged to the provinces where those submarine lands are contiguous to a province," and wondered why anyone would even raise a question "as to the ownership" of these resources at all (Privy Council Office 1964, 16). In Premier Stanfield's proposal of October 1964, the Atlantic provincial governments affirmed that their desire to transpose their historical legislative powers over natural resources from onshore to offshore resources was partly driven by their own success in developing the original competence over resources on lands that they felt deserved to be transferred or borrowed to a similar policy area in order to carry out the "orderly exploration and exploitation of submarine minerals" that is "essential to the economic development of the provinces" (Privy Council Office 1964, 17). Indeed, the premiers assumed that such a diffusion of legislative authority, rather than a balkanization of legislative authority and proprietary rights between onshore and offshore oil, was in fact the intention of Section 109 of the Constitution Act, 1867 and Section 37 of Newfoundland's Term of Union in originally granting them exclusive legislative authority over "all lands, mines, and minerals."

As noted above, the ambiguity in offshore mineral rules in Nigeria emerged over time and was not originally part of the federal institutional design. Nigeria's Independent and Republican Constitutions of 1960 and 1963, respectively, were unequivocal on ownership and control of offshore jurisdictions, and these provisions constrained states to restrict their demands to the issue of revenue sharing, from which some ambiguity later emerged. The states used the ambiguity resulting from the absence of an offshore rule in the 1999 constitution to support use of the 1992 amendment, via Decree No. 106, of the 1982 Revenue Act, which abolished the dichotomy between onshore and offshore oil that had been established by the Gowon military regime in 1971. However, the Supreme Court justices rejected the littoral states' argument that the 1982 Revenue Act as amended by Decree No. 106 of 1992 subsisted as the applicable law over offshore, having been in use "for revenue allocation before the coming into force of the 1999 Constitution in May 1999" (Supreme Court of Nigeria 2002). The justices insisted that the argument can only be convincing "in so far as [the Decree No. 106 of 1992 amendment of the 1982 Revenue Act] is not inconsistent with the provisions of the 1999 Constitution," and that the 1999 Constitution, and not the 1982 Revenue Act as amended, is the valid law (Supreme Court of Nigeria 2002). Accordingly, acknowledging that "it is the absence in the 1999 Constitution of a provision similar to subsection 6 of Section 134 of the 1960 Constitution[90] that has given rise to the dispute resulting in this case", the court then made recourse to international law–specifically, the 1982 UN Convention on the Law of the Sea—to grant authority over offshore resources to the federal government (Supreme Court of Nigeria 2002).[91]

[90] The subsection stated that "the continental shelf of a Region shall be deemed to be part of that Region" for the purpose of the application of the derivation rule.

[91] According to the Supreme Court, "It is important to note here that the Convention refers to nation States, and not internal states of a country, such as the littoral states of Nigeria in the case at hand. In a federation, the term applies to the federation itself, and not to the constituent or federating states that comprise the federation."

In addition, the states made some campaigns for resource control during the offshore case period, under which they wanted to claim ownership, control, and revenues of all resources, both onshore and offshore. These campaigns ultimately failed, as they were feeble attempts at political posturing. A significant obstacle to the realization of the littoral states' campaign for 'resource control' was the institutional design that gave ownership and control of minerals and oil to the federal government. This design made constitutional change to make mineral resources the competence of states, as advocates of resource control would wish in a National Assembly in which the oil-producing states were in the minority, difficult, if not impossible. Thus, where Nigeria's constitutional design of centralization served to constrain the actions of the states seeking expansive concessions for offshore oil rights, Canada's decentralist formal constitutional rule worked to enhance the provinces' quest for significant concessions over the offshore domain.

What complicated the interaction between the incentives provided by rule ambiguity in federal constitutional design for political mobilization and action over offshore oil in Canada, for which there is no Nigerian equivalent, is the extensive overlapping powers of both provincial and federal governments. This is not surprising because, as Cairns (1988), noted with regard to Canada, "The nature of the federal system with its fuzzy lines of jurisdictional demarcation, and extensive overlapping of the potential for government response, means that in innumerable fields there is, in fact, an intergovernmental competition to occupy the field, and slackness by one level of government provides the occasion for a preventive strike by the other" (185). The logical consequence of a constitutional structure in which overlapping power dominates is "the diminution of respect for constitutional procedures and rules of the game capable of policing the boundaries of federal and provincial jurisdiction," and transformation of intergovernmental conflict, which should otherwise be solved by "reference to the constitution" to the political realms in which one order of government becomes vulnerable to encroachment by the other through "the exercise of sheer power" and the "staking of claims for popular support" of their constituencies (Cairns 1988, 185).

The fuzziness that Cairns describes is perhaps more pronounced in the natural resource sector. While, as previously mentioned, the dominant authority relationship over natural resources in Canada tilt towards the decentralization end of the spectrum, the question is more complex than this suggests. In a practical sense, the allocation of power is entangled due to the federal government's power, even if indirect, over natural resources, which can become a source of intergovernmental conflict. In relation to the oil policy field, Fossum (1997, 190) observed that in Canada, conflict was prolonged by the very constitutional design that left the division of sovereignty between federal and provincial governments unclear, noting that the institutional framework characterized by "considerable overlap in constitutional powers generated an expansive dynamic and increased governmental uncertainty." Regarding offshore oil, Caplan (1969) pointed out that "the settlement of the offshore mineral rights dispute seems to have

been delayed and hampered by…uncertainty about, and near-equality of, the relative strength of the opponents" (184). Seen from this perspective, conflict intractability was the logical consequence not only of the tenuous constitutional balance of power between the two orders of governments, but also the ambiguity fostered by the constitutional balance of political power, in which neither the federal government nor the provinces can dominate the other. Caplan (1969) further argued that this situation, in turn, emanated from shifts in the balance of power from a centralized federation, which emerged from post-war tax sharing arrangements between the federal government and the provinces, to a decentralized one. With this delicate balance shifting from the provinces to the federal government and back again at different times, Caplan (1969) argues that the federal government's recourse to the court was a way of avoiding the deadlock that had become difficult to settle without hurting the other party. This situation aligns with Gattinger's (2015, 49) assertion that greater entanglements of constitutional powers between orders of government "often tend toward conflict (political and judicial) over the interpretation of federal and provincial jurisdiction." In the case of oil, as has been previously mentioned, even though primary rights belong to the provinces, the federal government holds power over commerce and trade, and direct and indirect taxation. This constitutional entanglement was transferred to the domain of offshore oil as the provinces believed that they should derive revenues from these resources as though they were on land, even though the courts had affirmed that jurisdiction over offshore resources belonged to the federal government. In addition, the provinces also claimed that they deserved ownership and control over offshore exploration activities, in order to regulate issues such as environmental protection. Furthermore, the provinces sought "industrial and employment linkages with onshore economies" (Clancy 2011, 7) to ensure that provincial terrestrial communities, which are the main territorial interest adjacent to the offshore domain "since there is little to no political community resident within the offshore belt," and who are directly influenced by resource development, are protected from the deleterious consequences of offshore oil development (Clancy 2011, 22). For example, the provinces and the federal government had different views on the pace of offshore development, with the federal government preferring a faster pace where the provinces, especially Newfoundland, wanted a slower pace (Blake 2015; Fossum 1997).

If conflict over offshore oil became intractable during the era of balance of provincial and federal powers in the 1950s and 1960s, or what Cairns (1979) referred to as the "period of provincial ascendancy" (177), this intractability was heightened with the oil price crises of the 1970s and 1980s. During this period, conflict over oil became more intimately interwoven with Canada's dual allocation of power in the natural resource sector, which influenced the responses of the federal government and the governments of the Western provinces, especially Alberta, to increasing international oil prices. Beyond the exigencies of the oil-price crisis, conflict was also shaped by the legacies of the previous era of federal-provincial relations, which Prime Minister Pierre Trudeau wanted to reverse. Accordingly, Trudeau's extensive intervention in the oil sector, an activation of the federal government's rarely-used powers

over oil, exacerbated the friction between the institutional and ideational features of Canadian federalism.

As Prime Minister, Pierre Trudeau was concerned with the increasing centrifugal forces within Canada, particularly Quebec's 'silent revolution' and Alberta's growing economic power, and their potential to weaken the federation (Trudeau 1990). John English (2009) argues that the NEP conflict should be seen within the context of the desire to rebalance the Canadian federation, which, in Trudeau's opinion, had tilted in favour of the provinces:

> [T]he NEP must be placed within the context of Trudeau's understanding of his times and his belief that a weakened federal government had to reassert itself...The federal government had been pulling back since the late sixties, as the provinces extended their reach in spending money, keeping in direct contact with citizens, and asserting their authority over language (Quebec) and resources (Alberta). (English 2009, 545)

Capitalizing on the openness provided by the critical juncture of oil price increases, Trudeau attempted to counterbalance province building with an aggressive vision of nation building (Cameron and Simeon 2000) and reconfigure the authority relationship by recoursing to shared rule. He used this principle to legitimize the centralized institutional pattern of his oil policy following the first oil price crisis in the 1970s. The gravity of the intervention increased after Trudeau's re-election in 1980 after he had served for a brief period as opposition leader. Trudeau's unilateral intervention in the oil sector via the NEP, as well as his efforts to patriate the constitution, have been considered to have ushered in "the period of the most intense conflict the country had known since the Second World War" (Cameron and Simeon 2000, 69).

An important mechanism by which the international oil price crises affected offshore conflict was the federal government's intervention in oil management. In order to ensure oil security and benefit from oil profits, the government was motivated to "use its Crown jurisdiction to shift exploration and production beyond the western sedimentary basin" towards frontier lands including the Atlantic petroleum shelves (Clancy 2011, 2). The federal government carried out this goal by implementing various policies following the first price increase in 1973. These policies included the formation of Petro-Canada in 1975 to carry out exploration and development of hydrocarbons, including in the frontiers or Canada Lands outside provincial jurisdictions, in order to achieve self-sufficiency and security through the increased participation of Canada in the oil industry, via Petro-Canada's "own operations and by co-operation with Canadian companies" (Fossum 1997, 88). The institution of the NEP in 1980 as response to the second oil price hike, through which generous fiscal incentives under the Petroleum Incentive Payments (PIP) grants were provided for oil exploration in the frontier lands, resulted in "a rapid if brief explosion of industry activity that laid the groundwork for East Coast production in the 1990s" (Clancy

2011, 2; Fossum 1997). Significantly, the NEP also led to an expansion of the mandate of Petro-Canada (Fossum 1997). The NEP and the heightened activities of Petro-Canada coincided with the discovery of oil in the Hibernia field and Scotian Shelf in 1979. These discoveries heightened the federal government's appetite for frontier development, not just to "increase [its] control over resource development" and to "wield more direct control over the activities of the oil MNCs," but also to "increase its share of economic rents" (Fossum 1997, 121-22). However, the federal government's attempt to intensify exploration activities offshore at a time when jurisdictional disputes were yet to be settled led to opposition from Newfoundland (Blake 2015; Fossum 1997). Newfoundland responded to the federal government's attempt to issue permits for the Hibernia fields by issuing its own permits and enacting its own regulations. This situation led to confusion with two levels of government each participating in the offshore domain, and the "competitive introduction of state participation rights" heightening "the uncertainty surrounding the nature of the industry in future areas" (Fossum 1997, 177). Consequently, both the longevity of conflict and the nature of conflict resolution, as exemplified by the 'institutional drift' described by Clancy (2011) as a "curious institutional hybrid" (18) characterized by joint management regimes and revenue sharing between federal and coastal provinces in the East Coast continental shelf, are poignant consequences of the coordination problem arising from constitutional entanglement or overlap over oil and the ensuring political balance of power. All of this in turn helped guarantee that the different visions of both orders of government over offshore development are, in some ways, guaranteed outlets for policy expression and enforcement.

In Nigeria, the distribution of power over oil was decidedly in favour of the federal government, which conferred a more powerful bargaining advantage on this order of government against the states during the offshore oil conflict and helped to reduce the extent of conflict intractability. Northrup (1989, 61) notes that "the distribution of power between or among parties has a significant impact on the course and conduct of a conflict" and hence "conflict resolution theory must account for the effect that the distribution of power may have on a conflict situation." This is because "outcomes are likely to be very different when parties to a conflict are relatively equal in power in contrast to when they differ greatly in relative power. In the latter case, settlement may be imposed by the high-power group" (Northrup 1989, 61). It can be argued that in a federation with a tenuous balance between forces of centralization and decentralization, resolution of conflict is likely to be deadlocked. By comparison, in a federation whose balance is nearly absolutely tilted in favour of either centralization or decentralization, conflict resolution is likely to be largely driven by the whims of the stronger party.

With the decisive distribution of power over oil in the hands of the Nigerian federal government, efforts by the littoral states to extract far-reaching concessions over both offshore and onshore oil during the conflict period were successfully repelled. The littoral states had used the transition from military to democratic rule as an impetus to extend their powers, which had previously been constitutionally limited

to revenue benefits to all ramifications of oil competences. However, the probability of effecting such concessions through constitutional change was remote in a federation in which the federal government formally held exclusive jurisdictional and legislative rights over oil and other minerals. In the end, the incentives democratization offered for political mobilization by the littoral states could not reverse the long history of centralized authority over oil, nor the entrenched structural and ideational constructs that favoured shared rule. Speaking generally about the stalled move by states that capitalized on the restoration of democracy to shift authority relationships in the Nigerian federation, Osaghae (2015, 275) concluded that "on balance…although states have used the opportunity offered by constitutional democracy to assert their autonomy in the struggle for so-called true federalism, the system has remained highly centralized, as a legacy of military rule, with particular consequences for fiscal federalism." Thus, these states had to concentrate their demands on the application of the derivation principle to offshore oil revenues, the only issue relating to allocation of power over oil that was fraught with constitutional ambiguity and incoherence and was thus still open for contestation. Even here, the NASS's attempts, in solidarity with the littoral states and, as I explain later, to demonstrate its own institutional power, by extending the limit of the littoral states' boundaries from the contiguous zone of 24 nautical miles to the continental shelf and exclusive economic zone (EEZ), were derailed. President Obasanjo had proposed this extension as the basis of his political settlement, but he vetoed the proposal due to his alignment with the supporters of centralized oil, especially in the non-oil-producing but politically dominant northern states. These states were concerned that the application of derivation to resources produced in the continental shelf would significantly reduce the share of revenues in the Federation Account upon which they depended. Obasanjo agreed to a settlement with the governors of the littoral states out of fear of rejection at the 2003 polls by politicians and community associations in the oil-producing region. However, the new compromise, reflected in the use of the unpopular phrase '200 metre depth isobath' as the limit of a coastal state's offshore boundary, was not significantly better than his original proposal of the contiguous zone of 24 nautical miles, as it practically removed two states—Lagos and Ogun—from benefitting from the political settlement because their 200-metre isobath ends in shallow waters in which no significant offshore oil was discovered.[92] The proposal also deprived all the coastal states of benefits from oil production in the deep offshore where most of the country's oil production was then taking place (Sagay 2004b). Of the latter, Sagay (2004b, 5) notes, "By far the most disturbing consequence of the coastal states' limitation to a 200 metre depth belt for derivation purposes, is that all the major offshore oil and gas finds are now in the deep offshore zone between

[92] Omeje (2006) describes the phrase '200 meters water depth isobath,' chosen by the federal government as the limit of littoral states' offshore domain for the purpose of application of the derivation rule, as "a legal gamesmanship that in all intents and purposes invokes the current of primitive pragmatism," pointing out that this choice of phrase, rather than the "widely recognized international maritime law concepts and practices of 'contiguous zone' (i.e. 24 nautical miles from the coast) and the 'continental shelf and exclusive economic zone' (200 nautical miles from the coast)" was a shrewd one.

1000 and 2500 metres as against the 200 metre limitation for coastal states" agreed as the basis for the political solution, with revenues in these lucrative deep offshore zones accruing to the federation.

However, the divergent conflict dynamics arising from overlapping powers would not have had the same effect without another important factor: the prevalent mechanism of intergovernmental bargains in these federations. In turn, consideration of the mechanisms of intergovernmental bargains forces us to give attention to what Scholz (2006, 462) described as "auxiliary institutions designed to implement the constitutional order that allow for the design of self-sustaining federalism." Bednar (2013, 281) forcefully underscores the importance of these complementary institutions to federalism:

> The components of the federation include of course the various governments—national and state. But it also includes the auxiliary institutions of governance that at times have an opportunity to express a judgment about the constitutionality of governmental action, such as the judiciary, the political parties, the media, and the public. These components are inextricably intertwined and jointly affect the distribution of authority; to study any single component's effect in isolation is to ignore the extent to which each is dependent on the others.

James Madison had earlier noted the importance of these safeguards when he referred to them as "auxiliary precautions," which are indispensable for the protection of rights and liberties; federalism itself is one of those precautions (Kobylka and Carter 1987). Building on this, several scholars of federalism have highlighted the importance of institutions such as courts (Aroney and Kincaid 2017; Russell 2017), democracy (Burgess 2006; Duchacek 1987; Hicks 1978; McGarry and O'Leary 2005; Watts; Wheare 1963), and political parties (Filippov, Ordeshook, and Shvetsova; Riker 1964; Thorlakson 2013). Filippov, Ordeshook, and Shvetsova (2004) have further upheld the organizational structure of political parties as the most important factor in federal stability.

I have earlier stated that this study does not use political party structure as a basis for comparison, as I do not consider this factor to have played an important part in shaping conflict dynamics. Rather, I focus on the different ways regional identities are reflected in federal institutions. Though, as King (1993, 94) noted, a distinctive feature of a federation that "most significantly distinguished it from other forms of sovereign state by the fact that its structure is grounded in the representation of regional governments within the national or central legislature on an entrenched basis," federations differ on the degree of this representation (Watts 2003).[93] Roger Gibbins made a starker distinction between the two main

[93] The differences broadly reflect the difference between interstate and intrastate federalism, which Chandler (1989, 8) describes as "two...modes" that "encapsulate the major issues of representation and as general concepts are applicable comparatively across federal settings." Intrastate federalism provides avenues for effective representation/participation of states in federal government institutions, while interstate federalism values government-to-government relations. Interstate federalism refers to those systems in "which the constituent units themselves...formally articulate conflicting preferences through relations between levels of government" (Chandler 1989, 9).

modes of representations in parliamentary system such as Canada and presidential systems such as the US [and Nigeria]—executive federalism and executive-legislative bargains—when he characterized of contemporary executive federalism as follows:[94]

> Rather than being represented *within* national governments, territorial interests are represented *to* national governments by state and provincial governments. Jurisdictional and policy disputes are ironed out in negotiations between the executives of the national and territorial governments, a bargaining process similar to that between sovereign governments. (Gibbins 1982, 45; italics in original)

By contrast, in a presidential system characterized by separation of power:

> Territorial interests are represented *within* the political institutions of the national government. Channels exist for territorial representation quite apart from state or provincial governments. (Gibbins 1982, 45; italics in original)

In Nigeria, separation of power federalism provides for the regional interests are officially represented in the federal institutions, including an elected Senate that formally represents states' interests based on equal representation, with three members for each state (Osaghae 2004, 2015). Canada, on the other hand, has had at best weak representation of provincial interests in central government institutions, including a Senate whose members are nominated by the Prime Minister rather than being elected. Given the weakness of the legislature, bargaining interactions are dominated by federal and provincial leaders and top civil servants representing the orders of government (Simeon 1972). Due to the relative lack of strong formal outlets for the expression of provincial concerns, as compared to federations with constitutionally empowered upper legislative chambers, Canada's intergovernmental conflict regulation process takes place outside the constitutionally prescribed process of governing (Hueglin 2006). Accordingly, the dominant formal political institutions through which the coordination of conflict or policy making in Canada and Nigeria's federalisms take place are executive federalism, which Watts (1989) labelled the "logical dynamics" of Canada's "parliamentary federalism," and, for Nigeria, executive-legislature bargaining. How do these mechanisms intertwine with federal institutional rule and the politics of federalism to influence intergovernmental bargaining and conflict dynamics over offshore oil?

Generally, the scholarly consensus on executive federalism in Canada is overwhelmingly negative, even though most scholars see the system as one that may have to be tolerated, considering the limited representation of provincial interests and identities in the institutions of the national government. Smiley (1972, 1979), for example, has blamed executive federalism for centrifugal tendencies,

[94] For clarity and consistency purpose, the categories of executive federalism and executive-legislative bargains respectively are used in place of the categories interstate federalism and intrastate federalism which Gibbins and other scholars referred to here used, given that the terms 'interstate' and 'intrastate' can mean different things to different people. For example, Bolleyer (2009, 2) refers to "interstate relations" as "horizontal relations between lower level governments."

heightening of electoral stakes, intensification of intergovernmental conflict, and for undermining higher degrees of integration between federal and provincial governments in Canadian federalism. Gibbins (1982, 59) argued that the constraints placed at Confederation on effective representation of provincial identities and interests beyond the accommodation of Quebec's cultural communities, and further limitations over time, have led to the "emergence of new interstate structures for territorial representation, an increasingly decentralized federal system and prolonged territorial strain within the body politics." The predominance of executive federalism also shuts out public participation in governmental processes, and, more importantly for the sake of this study, renders legislative debates mere symbolic acts, especially when the ruling party often has a majority to rubber-stamp rather than disrupt negotiations already reached by the executives (Watts 1989).

It would seem that negotiations over offshore oil emphasized and increased the shortcomings of executive federalism, as it was also characterized by bilateral 'or side deals' between the federal government and relevant provinces, rather than through multilateral negotiations involving Newfoundland and Nova Scotia and the federal government, which led to the 2005 renegotiation of the 1985 and 1986 Accords. However, these 'special' deals were denounced by other provinces as antithetical to the norm of negotiation and fairness in Canada (Lecours and Béland 2010), even though Dalton McGuinty, the Premier of Ontario, who had earlier criticized such side deals, quickly negotiated his own bilateral agreement under which Prime Minister Paul Martin promised Ontario $6 billion in 2005 (Simmons 2016). These cases demonstrate how executive federalism, especially its bilateral component, affords governments the flexibility of reaching agreements over thorny issues that would have otherwise been difficult to reach through multilateral agreements, and in designing responses to fit provinces' peculiar situations. Nevertheless, it also inserted conflict into the intergovernmental system, as it provided both provincial and federal governments opportunities for defection or violation of agreed rules. Although one of the noted weaknesses of executive federalism is that it largely unaccountable to the public (Smiley 1972; Simeon 1975), the recourse to ad hoc deals added the potential for another debilitating weakness or vulnerability, which was the severing of accountability and trust between governments themselves. Cullen (1990) noted this point in his comparison of offshore conflicts in Canada and Australia, pointing out that conflict resolution in a bilateral framework created trust problems that contributed to conflict intractability.

Executive federalism may provide flexibility for quicker intergovernmental agreements, but this very strength can also imperil it, as agreements that are reached could be easily repudiated at a similar pace. In part due to the low level of institutionalization (Bolleyer 2009), political agreements reached under executive federalism are not legally binding until and unless legislations are enacted to affirm them. This raises the possibility of politicians reneging on such agreements before legislations can be enacted to support them. As Poirier noted, "in the Canadian legal system, unilateral legislative action

takes precedence over bilateral or multilateral agreements" (2004, 434); however, the party discipline and Canada's unique combination of federalism and the Westminster model, which concentrates power in the executives at both federal and provincial levels, have weakened the capacity of "Parliament to act as an arena of federal-provincial adjustments" (Simeon 1972, 280; Chandler 1989). Thus, changes to agreements already reached by executives become unlikely. To be sure, there have been enduring agreements between federal and provincial governments under the executive federalism framework, so that the lack of credible commitment appears to be rare. Yet, given the nature of conflict over offshore oil, such political agreements were occasionally difficult to sustain. Cameron and Simeon (2000, 69) provide reasons for 'greater tension' in federal-provincial conflict: (a) ideological differences exist; (b) the status, recognition and identity of regions, communities and governments are seen to be at stake in intergovernmental negotiations; (c) issues play out differently along regional or linguistic lines; (d) neither government is prepared to defer to the other; and (e) the primary concerns of governments become blame avoidance, the winning of credit, and the enhancement of their own political status relative to other governments. All these issues were at stake during the offshore oil conflict in Canada, and all of them negatively affected the chances for compromise and prolonged the conflict.

In addition to the possibility of reneging on decisions already made, executive federalism can potentially frustrate political settlements in other ways. Agreements made under executive federalist frameworks are vulnerable to reversal due to government changes, such as changes in preference of new governments or promises made during election campaigns, which are repudiated once the election is won. Personality clashes can also contribute to conflict impasses and, ultimately, higher conflict protractedness, as occurred during the offshore oil conflict in Canada (Caplan 1969). For instance, Gault (1985, 80) pointed out that negotiations between British Columbia and Ottawa early on were frustrated, partly "because of personality clashes between Premier Bennett and Prime Ministers Diefenbaker and Pearson" and also noticed a similar personality clash between Premier Peckford of Newfoundland and Prime Minister Trudeau decades later. The clashes over equalization and offshore-related revenues between Premier Williams of Newfoundland and Prime Minister Harper can also be partly explained by the incentives offered by executive federalism largely built around first ministers with different idiosyncrasies for the personalization of conflict. The high potential of executive federalism to insert the public into intergovernmental conflict is another factor in the heightening and personalization of conflict (Simeon and Cameron 2000). Due to the dominance of public opinion, "the decisive debates on national policy are now less in Parliament than in the public exchanges between federal and provincial leaders" (Kent 2004, 3). The battle for the 'soul and minds' of the public can, and often does, become a fierce one, with provincial government actors staging what Caplan (1969, 180) described as 'public relations' theatrics. Kent (2004, 4) noted how and why this strategy comes in handy for provincial governments:

> Most provinces may be relatively puny in resources, but in the court of public opinion they have the strength of ten. They have only to put an issue on the table, to complain about federal policy or lack of it, and Ottawa is on the defensive. The issue may be in either jurisdiction, but it becomes of national concern, potentially affecting what people think of the federal government, how they will vote next time. Ottawa politicians, on the other hand, rarely have any significant influence on the internal politics of a particular province, certainly not on the electoral fates of provincial governments in general. The disparity in bargaining power is plain. The federal government needs agreement with the provinces. It gets most of the blame if meetings end in disagreement. On most matters, most of the provinces have little, politically, to lose. They can just blame the feds at once, instead of spending a little time digesting a federal concession before returning to the attack. (4)

Provincial governments' public relations efforts can "stigmatize" prime ministers into carrying out actions such as negotiation, even when the prime ministers are convinced that there is no basis for such negotiation as they will not change their position, thus extending the conflict, as was the case in the British Columbia offshore rights dispute (Caplan 1969, 180). Also, prime ministers can be pressured to make commitments they know they may not keep, and this can provide grounds for further conflict when and if those commitments are broken. The personality clashes that emanate from the interaction between these leaders are further sustained and nurtured by the electoral incentives, especially to provincial leaders, to create political capital from crisis, such as by shifting blame for their shortcomings to the other order of government (Stevenson 2009) in the hope of impressing upon the provincial electorates that they are willing to fight for their interests. Seen from this perspective, the Canadian system makes itself more amenable to framing and discourse. While on the one hand, executive federalism makes "public opinion...a lobbying tool for advancing major political and financial redistribution issues" on the other, the "closed door" nature of meetings and negotiations and the "opaque nature of implementing agreements" make it difficult for citizens to "clearly identify the source of a particular problem" (Adam, Bergeron, and Bonnard 2015, 162). The practical implication of this is that the battle to win the support of the citizens by shifting blame and taking credit would necessarily be carried out through framing in the media, which may involve embellishment and/or distortion of facts.

Though executive federalism provides incentives for bilateral bargainings, it also offers perverse incentives for conflict dynamics. Bilateral commitments made between provincial premiers and the prime minister can be easily denied or violated, and this can spiral into rounds of claims and counter-claims that add to the level of conflict intractability. Such unilateral changes to bilateral agreements become easier because other provincial governments who could have served to validate the claims made by the parties to the conflict, or pressure the defaulting party to comply with his/her/their commitments, are not part of the deal. Bilateral agreements can allow the prime minister to avoid provincial governments ganging up, as, for example, if other provincial premiers use their veto to scuttle the chances of an agreement, or use the threat of veto to piggyback their own demands even if those

demands were not originally on the agenda. Bilateralism also serves as an important political strategy to undercut the bargaining power of an intransigent province during negotiations. As Blake (2015) noted, Trudeau used this strategy in his negotiations with Nova Scotia alone, instead of with both Nova Scotia and Newfoundland, on the offshore oil issue. With Newfoundland being the more recalcitrant of the two provinces, Trudeau had calculated that a deal with Nova Scotia would force or put pressure on Newfoundland to return to the negotiating table.

Yet, in spite of its advantages, bilateralism makes an informal arrangement such as executive federalism more informal, which can open up agreements to a greater possibility of violation than under agreements witnessed by all provincial governments. When agreements are broken, trust, which is an essential ingredient of federal bargain, and much more so in the informal governance mechanism of executive federalism, is eroded or diminished. Bickerton (2008) observed such a breach of trust by Prime Ministers Martin and Harper concerning offshore revenues and equalization clawbacks in the 2000s. The mistrust or distrust emerging from this scenario not only aggravates conflict, but also fouls the intergovernmental arena and weakens confidence in executive federalism, which can be described as the lifeblood of Canada's intergovernmental relations. The claims and counter-claims over the real terms of the equalization deal between Martin and Harper and Newfoundland and Labrador Premier Danny Williams are cases in point. For some time before Martin and Williams signed the 2005 agreement to renew the 1985 Atlantic Accord, the terms of the 2004 verbal agreements between these two leaders were contentious, with both giving different interpretations, thus creating serious obstacles to the resolution of conflict. Also, though he promised to exclude natural resources from calculation of provincial fiscal capacity on different occasions, Prime Minister Harper introduced conditions while implementing this promise, adding to the intractability of conflicts over offshore oil and over equalization. Premier Williams accused Prime Minister Harper of reneging on his own promises as well as the 2005 equalization-offshore deal that Newfoundland and Labrador had with the previous government of Prime Minister Martin that the province would be allowed to "keep its offshore oil revenues while still being eligible for full equalization payments from Ottawa" (Harris 2014). Harper, for his part, claimed that the changes he introduced that tended to violate these earlier commitments were informed by the significant technicalities of the original Atlantic Accords "over which people of good faith can have differing interpretations" (*Toronto Star* 2007). This altercation degenerated into a war of words, with Danny Williams asking citizens of Newfoundland and Labrador to vote 'Anyone But Conservatives' in the 2008 election.[95] It further created a perception, right or wrong, of a federal government that cannot be

[95] Danny Williams's "ABC" campaign was partly credited for the Harper Conservative Party's poor performance in the Atlantic provinces during the election, winning just 10 of 36 seats (Conway 2014, 269) and losing the three seats it previously held in Newfoundland (Flanagan 2009), even though, as

trusted, leading one commentator to argue that "when it comes to money and deal-making with Stephen Harper, the lesson is clear: Get it in writing and remember to bring along your magnifying glass for the fine print — and, oh yes, your Philadelphia lawyer" (Harris 2014). The point to keep in mind is that such unilateral changes to an agreement or commitment made by political executives, which in turn led to the escalation of conflict, was highly shaped not just by the flexibility of executive federalism, but also through bilateral between Ottawa and the provinces. These deals delegitimize the agreement in the eyes of the other provinces that were not part of the deals, which could otherwise have pressured the defaulting partner to honour its commitment. Thus, while executive federalism can be an obstacle to harmonious resolution of intergovernmental conflicts, bilateral agreements or side deals pose even greater hazards. While this may not be so in all negotiations, Cullen (1990, 208) noted that this system has suffered "from some specific, serious flaws of its own," as far as offshore conflict is concerned. One disadvantage is that "bilateral dispute resolution has not served the national interest particularly well" (Cullen 1990, 208). The tendency of bilateral resolution to escalate and prolong offshore-related disputes was borne out by the resurgence of conflict in the 2000s following the Accords of the late 1980s.

In contrast to the informally institutionalized pathway of executive federalism by which offshore oil conflict was resolved in Canada, Nigeria, owing to its presidential system, employed the more formal mechanism of separation of power institutions. In Nigeria, conflict was resolved through the Act of the National Assembly and was therefore difficult to change; meanwhile, conflict resolution in Canada was dependent on executives and was thus more vulnerable to periodic shifts in agreed terms. Though these shifts do not always happen, they seem to have characterized important agreements or commitments aimed at resolving offshore oil disagreements that contributed to the longevity of conflict.

Juan Linz (1990, 52), one of the foremost scholars of governmental systems and democracy, has praised the "superior historical performance" of parliamentary democracy as compared to presidential systems. Some of the "perils of presidentialism" Linz highlights include the potential for a stormy executive-legislature relationship, and the potential of parliamentarism to impart flexibility to the political process while "presidentialism makes it rather rigid" (1990, 55). Scott Mainwaring and Matthew Shugart (1997) have further outlined conditions under which the drawbacks of presidential systems can be ameliorated, such as presidents with weak legislative powers, cohesive parties, and a disciplined party system. They conclude that "even if parliamentary government is more conducive to stable democracy, much rests on what kind of parliamentarism and presidentialism is implement" (Mainwaring and Shugart 1997, 449).

Flanagan noted, this could not prevent Harper from winning the election, although, yet again, as a minority government.

Mainwaring and Shugart's (1997) recommendation of more attention to the context of these systems in assessing variations in their performance is a useful point of entry for a discussion of the ambivalent effects of the executive-legislature relationship on offshore oil negotiations in Nigeria. Though, as Linz predicted during the time of the conflict, executive-legislature conflict did occur, it had a salutary effect on offshore oil conflict resolution, at least initially, in a way that Linz did not anticipate. This salutary effect is reflected, as mentioned earlier, in the NASS's decision to mute partisan and territorial interests in order to speedily pass the bill that would apply the derivation rule to oil produced in the continental shelf, amending President Obasanjo's earlier proposal for the use of oil produced in the contiguous zone for this purpose. Federal solidarity was one of the reasons for this development; another was the institutional self-interest of the NASS.

The transition from military to civilian rule in 1999 provides a backdrop for understanding the complex power play between the legislative and executive arms of government during this period. The offshore oil conflict of the 2000s took place in the context of the ending of the last phase of military rule in Nigeria, which was characterized by increasing personalization of power and control of civil society by military rulers and increasing use of coercion as a governance apparatus (Lewis 2007, 84). As a result of the "overcentralized system of government and economic resources" which Obasanjo, himself a former military ruler, had inherited from the previous era (Isumona 2012, 48), and the weaknesses of other countervailing institutions of democracy in 1999, Obasanjo's presidency became what has been described as an 'imperial presidency' (Elaigwu 2007; Isumona 2012). To many of the legislators, a clear evidence of President Obasanjo's desire to strengthen the presidency, and by implication the federal government, at the expense of other democratic institutions, was reflected in his attempt to influence the choice of leader of the NASS, which resulted in the selection of 3 different Senate presidents between 1999 and 2003, or 6 Senate presidents during his (Obasanjo's) 8-year term as president. This interference prompted the NASS to reduce support for the president's policies. Though many of the members belonged to the president's own party, they decided to overlook partisan loyalty in order to exert control over executive actions and weaken his political leverage. The NASS's refusal to pass the onshore-offshore bill proposed by the president, and their support for their own bill, should thus be seen as both a demonstration of their commitment to federal solidarity and an attempt to assert the independence of the legislature from the executive.

It suffices to say that the legislators' show of power, remarkable as it was, could not be sustained, as the president withheld his assent to their amendment to his own proposal. President Obasanjo claimed that the reason for turning down the NASS concession was the need for Nigeria to avoid conflict with neighbouring maritime countries. However, the objections of the 19 non-littoral states, who regarded the NASS's concession as unconstitutional and a potential risk to revenues from offshore oil, was also a central factor in that decision. The material and ideational incentives for centralization thus conspired

to undermine and disrupt the earlier, far-reaching conception of revenues granted to the coastal states, which would have seen the derivation rule applied to the offshore zone as far out as the continental shelf. In response, the HoR included the president's refusal to give his assent to their bill as one of the 17 allegations of egregious constitutional violations and misconduct leveled against him in the 2002 call for his impeachment (Osaghae 2015b). However, this did not dissuade him from insisting that he would not sign the bill.

Strengthening Obasanjo's resolve to not sign the bill was the opposition from the politically powerful non-littoral states in the north to the political compromise forged by the federal lawmakers. With the opposition of these states' governors and powerful civil society group, the fragile coalition of interests that mooted these interests to support the amendment of the president's bill, which would have led to a far-reaching consensus that would have seen the littoral states benefiting from oil produced in the continental shelf, started collapsing. The opposition from the politically powerful northern non-littoral states in the north to the federal lawmakers' political compromise strengthened Obasanjo's resolve not to sign the bill. With the opposition of these states' governors as well as powerful civil society groups, the fragile coalition of interests that supported the amendment of the bill began to collapse. The amendment would grant a far-reaching consensus that would have seen the littoral states benefitting from oil produced in the continental shelf. The opposition of the governors and civil society groups in the northern states points to the fact that the choices of the federal legislators from non-littoral states were not necessarily those of their states or even their constituents. Besides open criticism of the political compromise by these governors and civil society groups, the most prominent of which was the Kano Elders Forum (KEF), another indicator of the diametrically opposed interests of the lawmakers from the non-littoral states and the governors of the states they represent in the NASS was the allegation by the governor of Kano State, Rabiu Musa Kwankwaso, that legislators from the non-littoral states in the north were "bought over…during the case of the offshore/onshore debate in 2002" even though their actions made their states and citizens poorer (Vanguard Sweetcrude 2013). With increased criticism of the political compromise, and allegations that the legislators 'sold out,' it became clear that the solidarity amongst the members of the NASS would soon dissipate. The federal legislators from the north had initially supported other legislators to modify the president's original bill by specifying the continental shelf as the limit of the coastal states' boundaries for the purpose of derivation formula application, even though doing so would make their states lose some revenues. Though they had joined their colleagues to give the bill an expedited hearing and unanimous passage, they did so when there were no open objections from their region. Making extensive concessions to the oil-producing states to foster a sense of belonging was less of a political risk at the time. However, the legislators' reaction to the whole issue began to change with the stringent objection expressed first by the Kano Leaders Forum and later by the governors of their states. These objections made the legislators realize that they needed to balance the interests of the oil-producing states with the interests of their own states – which

favoured no concession at all – if they hoped to win re-election. Accordingly, with the possibility that the NASS may no longer be united in insisting that Obasanjo should sign the bill as they amended, the legislators' opposition to what they perceived as an overbearing executive power was weakened. With this development, the leadership of the NASS became unwilling to put the override to a vote for fear that they may not be able to garner the required votes for the override. As Jonathan Zwingina, the Senate spokesman at the time, noted:

> Well we didn't override the veto because of certain circumstances. The first is that we do not want to create a state of conflict over that bill because of its importance. That bill is so important, because when you override a veto, it means you have forced the law into being whether the executive like it or not, and we didn't want to do that because we wanted the executive to implement this law peacefully and accurately. If we override the veto, he (Obasanjo) may feel offended and not even implement it. That is why we didn't even override the veto. The second reason we didn't want to override the veto is because by the time the bill came to us for overriding the veto, new developments had started. For the first time, the northern governors met and opposed the bill, so the country was about to be divided between the northern governors and of course the supporters of the bill. So, if we had gone to override the veto, you may find that we may not even have the numbers to override the veto.(Nwabuko 2003)

With the legislature's failure to 'force' President Obasanjo to sign its version of political compromise over offshore oil, the contingency of election spurred Obasanjo to initiate moves toward another concession, which eventually became the final political settlement of Nigeria's offshore oil conflict.

8.4.2. Ideational Federalism: The Tension between Shared Rule and Self Rule

Conflict dynamics in Canada and Nigeria were also shaped, broadly speaking, by the interaction of institutional designs and embedded ideational norms of the oil policy sector. Thus, in both federations, the struggle over jurisdiction and property rights over offshore oil continued through public pressure exerted by constituent units following the legal/judicial determination of the cases. In Canada, where decentralization was already entrenched as the dominant institutional logic of natural resource ownership and control, a widespread consensus emerged regarding provincial ownership of natural resources, both offshore and onshore, in general, even though the Supreme Court of Canada had ruled otherwise with regard to the offshore area. Thus, the more generous concessions granted to Newfoundland and Nova Scotia by the Atlantic Accords of 1985 and 1986 were not seen as abnormal by landlocked provinces or by the majority of Canadians. The absence of any vigorous political or legal challenge to these concessions by these governments would seem to support this assertion. Indeed, instead of challenging the position of the coastal provinces, the non-coastal provinces expressed their

support of and solidarity with British Columbia and Newfoundland, the two coastal provinces whose claim over offshore mineral rights with the federal government were resolved legally during the judicial phases of the conflict. For instance, Pollard (1986, 98) notes that not only did all provinces agree that onshore and offshore resources should be treated equally, but the Attorneys General of Alberta, British Columbia, New Brunswick, Nova Scotia, Prince Edward Island, and Manitoba intervened on behalf of Newfoundland at the 1983 Supreme Court hearings on the case between Newfoundland and the federal government over the ownership of Hibernia. Also, Russell (1987, 180) points out that during the British Columbia reference, all provinces except Manitoba, Quebec, Saskatchewan, and Alberta filed briefs at the Supreme Court supporting British Columbia's position.[96] Also, during the 1980 First Ministers' Conference, all 10 provinces agreed that offshore resources and revenues should be treated as resources on land, and that this provision should be inserted into the constitution.[97] These interprovincial solidarity efforts indicate the level of provincial investedness in resources generally, whether offshore or onshore, as well as their support of a general consensus on the principle of provincial rights over natural resources. Roy (2012, 78) observed that "the notion that these provinces own this continental shelf is so ingrained in the minds of Canadians that few were surprised by the idea of delimiting a maritime zone encompassing the continental shelf between them [Nova Scotia and Newfoundland]," thus indicating favourable government and public opinions toward a decentralist solution to offshore claims in Canada.

The point to be emphasized here is that the bias of the Canadian public in favor of self-rule—provincial ownership, control, and right to benefit principally from offshore mineral resources, rather than formal rule as determined by the courts—was made possible by decades of provincial ownership of onshore oil and its use for province-building, which benefited citizens of the provinces. Under this condition, the public could hardly fathom any alternative institutional arrangement over offshore oil than the one they had always known regarding onshore oil. This is what institutionalists refer to as the logic of appropriateness or "socially constructed identity and role conceptions and norms of appropriate behavior" (March and Olsen 1998, 951).

The identification of provincial societies with province building, and the perception of and support for a continuation of the provinces' role in both onshore and offshore oil management, would have played a part in the dynamics of the conflict. This can better be understood with reference to Alan Cairns' (1986) concept of the "embedded state." Cairns argued that with increasing fragmentation of the state in Canada comes a corresponding fragmentation of society as a whole, thus providing the state with

[96] Quebec was not represented on this reference, not because it did not support British Columbia's claim, but because it felt that the reference should not have even been instituted in the first place, as the case in question was a political rather than a legal one.
[97] Brownsey (2003) noted that the federal government "refused to negotiate constitutional amendments that would cede offshore resources to the provinces during the 1980-82 constitutional negotiations."

different linkages to different aspects of society. This interdependence between state and society generates incentives for the state to shape the preferences of the society through its policies from which different social groups benefit. Such an 'embeddedness' of the state in society, entrenched incrementally over a long historical span, generates collective shared identification with the state. Cairns (1986, 57) comments on this symbiotic but dialectic relationship between state and society as follows:

> The contemporary state manoeuvres in an ever more extensive policy thicket of its own creation, interacting with a society that is tied to the state by a complex network of benefits, dependent relations and coercions. From this perspective, the state, in confronting society, confronts its own past, and the society that seeks to influence the state directs its efforts to transforming the multiple linkages that interpenetrate and affect almost every facet of its functioning.

It should not be surprising that the provinces are more embedded in Canadian society than the federal government. Since the Canadian federation was formed by colonies that had existed as semi-autonomous states prior to confederation, civil societies were already part of these colonies and developed alongside the provinces that came together to form Confederation, with responsible government as the umbilical cord that enhanced the link between state and society. In other words, these societies were provincial societies prior to Confederation and remained so thereafter. David Smith succinctly noted this when he stated:

> Except for British Columbia, the provinces had experience with responsible government before confederation. Therefore, the politicians of 1867, whose primary concern was to allocate fields of jurisdiction, had no reason to refer to, let alone alter, so vital a part of the political system. Nor did confederation touch, much less create, the civil society served by that system. Law and the courts, the press and the professions, universities, schools and more preceded confederation. Everywhere, the creation of local initiative, and on each of them the Crown, conferred legitimacy while impressing upon the whole a unity that predated confederation. Thus, regardless of the extent or number of powers relinquished by the colonies in 1867, the pre-existing colonial, now provincial, societies continued unaltered. (Smith 1991, 460-461)

Though Cairns (1986) would dispute the 'unaltered' transition of colonial societies to provincial societies, it is safe to argue that the provincial governments are particularly embedded in the lives of their citizens with regard to natural resources, since the provinces hold primary constitutional jurisdictional rights over those resources. As Smith (1991, 457) argued, "control of resources empowered the governments of the provinces not only to determine the sequence and kind of resources that would be exploited within their boundaries but, through their decisions, to exercise as well determination influence over social development." The use of resource revenues, decades before the emergence of oil as a significant economic commodity, for province-building projects further fosters this sense of attachment (Armstrong 1981; Chandler and Chandler 1979; Innis 2017; Richards and Pratt 1979; Simeon 1978; Stevenson 2009). With the provinces already holding competence over natural resources, oil which

later emerged as an important resource significantly enhanced the role of resource revenues in building provincial infrastructures, thus further entrenching the idea of provincial ownership and control of natural resources (Stevenson 2009). For the citizens of Atlantic provinces whose premiers were locked in disputes with the federal government over offshore oil jurisdiction, Alberta's use of its onshore oil revenues and windfalls for large-scale development programs or province building in health, education, infrastructures, and investments, including the establishment of a windfall fund to be used to diversify the economy when oil reserves dry out (Cullen 1990; Government of Newfoundland 1982), became the framing reference that the premiers used to convince their citizens of the benefits that would accrue to them if provinces, rather than the federal government, become primary actors in the offshore oil sector. Ontario's control of offshore oil resources in Lake Erie on the Canadian side of the Great Lakes was similarly used as a model for proprietary and legislative rights to provincial offshore resources. During the offshore conflict, Newfoundland consistently used Ontario's jurisdiction over the mineral resources in Lake Erie to justify its own claims for offshore sovereign rights over Hibernia. For instance, in his address to the Newfoundland Legislative Assembly in 1980, Newfoundland's premier pointed out that the federal government which seemingly ignored Ontario's discovery of oil in Lake Erie in 1913 had turned around to contesting Newfoundland's claims to its offshore resources: "Even negotiation was not necessary in 1913 when the world's first offshore well was drilled on the Canadian side of Lake Erie. The Federal Government of that day did not dispute Ontario's proprietary and legislative rights with respect to the resources of the lakebeds. Since 1867, Ontario has owned and controlled the underwater resources of the Great Lakes, even though these lakes are international waterways" (Government of Newfoundland 1982). The majority of the provinces supported Newfoundland's claims on several occasions, citing Ontario's offshore rights. Thus, despite the provinces not having formal constitutional authority over offshore resources, the embeddedness of formal rules regarding ownership, control, and revenue competence of onshore resources provided an ideational constraint restricting the federal government from significantly deviating from established institutional arrangements. The widespread perception that such formal powers are beneficial to provincial societies further legitimized the extension of those powers to the offshore domain.

The prevalence of the idea of self-rule over natural resources was and is widely shared and supported by both representatives of the provincial government and the federal community as a whole. This shared understanding was demonstrated, as previously stated, during the offshore conflict cases in the support provided by other provinces (including non-littoral provinces) to litigant provincial governments during the legal adjudication phases of the offshore conflict. To be sure, political actors' "'background ideational abilities'" which "explain how institutions are created and exist" and their "'foreground discursive abilities,'" which "explain how institutions change or persist" are not static (Schmidt 2008, 303). Thus, the idea of self-rule has waned and waxed even within the provincial meaning contexts. For instance, Blake (2015) noted the dominance of the idea of shared rule amongst some premiers of

Newfoundland who favoured centralized redistribution of resources from richer provinces to poorer ones as the surest method to ensure economic development in provinces such as Newfoundland that could not otherwise compete favourably with the others. Yet, Blake (2015, 319) also noted that two prominent premiers of Newfoundland – Peckford and Williams – used this idea of self-rule as framing construct to reverse the previously dominant idea of shared rule and were able to galvanize the provincial society behind them in this endeavor. In contrast to the earlier belief in shared rule and strong federal government that could redistribute national wealth in favour of the province, these two premiers elevated the concept of self-rule during their conflict with Ottawa over offshore oil rights. This was reflected, for example, in the premiers' insistence that provincial control of offshore oil development is a key element of provincial identity, which guarantees it equality with other provinces in addition to being the best guarantor of economic self-sufficiency and the socioeconomic well-being of the people (Blake 2015; Government of Newfoundland 1982). Danny Williams justified self-rule with the statement "masters in our own house" (Marland 2010) and insisted upon "no more giveaways" of resources in his bid to mobilize the province's collective resentment against Ottawa and others, including Quebec, which he regarded as having held back the progress of Newfoundland. He further upheld the mobilization of citizens behind the Newfoundland Progressive Conservative Party as the medium through which the province's goals could be achieved (Marland 2014; Simpson 2009). The clash of this provincial idea of self-rule with the idea of shared rule that Prime Minister Trudeau aggressively promoted is a significant reason for the intractability of conflict in Canada.

In Nigeria, it was the central government that eventually became dominant in the interpenetration of state and society in the area of mineral resources. Nigeria's dependence on oil, the ownership of which was centralized both before and after federalization, weakened the chances for an equivalent to Canada's province-building endeavours and the self-rule that would serve as a counterpoint to centralization. The absence of such historical legacies of provincial ownership/control of mineral resources undermined the struggles of the oil-producing states for resource control or 'true federalism.'

Scholars of Nigerian federalism (Adamolekun and Ayo 1989; Adamolekun 2005; Elaigwu 2006; Elazar 1987; Osaghae 1998, 2015; Suberu 2001, 2004, 2008, 2015) have pointed out that the need to accommodate Nigeria's ethnic diversity and heightened regionalism carried out largely through regional political parties dominated by the majority ethnic groups in each of the regions significantly influenced the adoption in 1954 of the federal constitution. Adamolekun and Ayo (1989) described the 1954 constitution as a "'loose' model of federalism" characterized by federal and regional governments that were "'equal and co-ordinate' with respect to the jurisdictional allocation of powers." A measure of the strength of regional governments' powers during this period was the assignment of all residual powers to them (Suberu 2015). Adamolekun and Ayo (1989) noted that the independence and republican constitutions of 1960 and 1963 maintained this same federal arrangement before the collapse of civilian

rule in 1966 led to the federal government becoming what Osaghae (1994, 83) called the "master government." Yet, although the 1954, 1960, and 1963 Nigerian Constitutions decentralized more powers on revenue sharing, they left ownership and control of oil under federal jurisdiction. This historical legacy was further aggravated by the military governments' reforms, partly in response to the exigencies of civil war and the international oil price shocks of the 1970s and 1980s. During this period, the military rulers and their civilian policy makers decided to centralize the revenue sources that had previously been insulated from centralized control, even abolishing the constitutional rule stipulating that fifty percent of offshore oil revenues should be returned back to the region of production or origin based on the derivation principle. In addition, the historical legacy of military rule, under which the veto powers of state governments were relaxed or undermined, enhanced the federal government's power to carry out constitutional or institutional restructuring affecting revenue sharing. Jill Vickers (2010, 420) has said of the effects of federalism that "establishing a beachhead in one institution, governance site, or policy sector often has spillover effects activists can use to promote change in other institutions, arenas, or sectors." We can similarly argue that, with its foothold over ownership/control firmly established, the federal government considered itself well positioned to extend these centralizing impulses/powers to the revenue arena. However, it is doubtful whether this would have succeeded without the convergence of supporting critical junctures of military rule, civil war, and oil price shocks, which relaxed institutional constraints for radical reforms. The following statement by a fiscal commission appointed by the federal government—the Pius Okigbo Revenue Commission of 1980—poignantly reveals the perception of the central government regarding mineral revenues which was allocated totally (by 100 percent) to the regions in 1954 when the federation was formed:

> The owners of the minerals on which royalties are levied are indisputably, under the existing laws and under the Constitution, the Government of the Federation. It follows that the payment of a part or the whole of the revenues from this source to the state (or community) where the mineral is produced does not derive from a legal right but from political or other considerations. To transform this political act into a legal claim of right as the producing states seem to want is to do violence to reality. (Federal Republic of Nigeria 1980, 93)

Besides changes to the revenue arrangements, the military government's creation of states, which increased the number of Nigeria's territorial units from four in 1967 to 36 in 1996,[98] affected the nature of states' competition and cooperation regarding oil revenues. The creation of states, the majority of which "lack viable sources of revenue of their own" (Aiyede 2002, 20) and therefore depend on federally-collected oil revenues, led to increasing interest in centralization, which complicated the efforts to reverse the centralization of oil management. Justifying the centralization of fiscal management and how the country's three-year National Development Plan (1975-78) would be frustrated without national

[98] The only territorial exercise carried out by the civilian government was the creation of the Mid-western region from the western region, which brought the number of territorial units to four, in 1963.

management of revenues and redistribution to solve the emerging problem of fiscal imbalance between states, Yakubu Gowon, then Head of State, declared, "If we are to rely on existing revenue allocation formula, no state government except two, will be in a position to finance even a single year's programme on the basis of projected surplus. A situation such as this would normally make nonsense of the very ambitious plan I have taken care to announce in this address" (Gbinije 2005). Against this background, shared rule would become the dominant normative idea for oil management in Nigeria; a majority of states supported it because their existence depended on it, and their interests merged with those of the federal government. This could explain the federal government's and the non-littoral states' opposition to the granting of far-reaching concessions to the littoral states during offshore oil conflicts. In Canada, the convergence of institutional and ideational rule favoured decentralized natural resource management, and the provinces hold the rights to their natural resources thanks to the institutional path established in the original federal constitution of 1867. In Nigeria, the littoral states could not mount an effective resistance to centralization of mineral resources, in part due to the existence of states that rely predominantly on redistributed centrally collected revenues. Seen from this perspective, the alignment of interest of the majority of states with that of the federal government has served to preserve centralization. The vested interest in centralization by majority of the states and the federal government has rendered unrealizable calls by the mainstream media, academia, and civil society groups in the south, as well as the oil-producing states for a "restructuring" of authority relationships in order to bring about 'true' federalism, analogous to a return to the model of federalism practiced between 1954 and 1966 (Suberu 2015).

The convergence of earlier patterns of centralized authority relations over oil, military rule, civil war, and the increasing reliance of the whole federation on oil revenues altered the balance of Nigeria's fiscal federalism from 1954. This is at the root of the instability of Nigerian federalism, reflected by the existence of states that are not self-sustainable without redistributed oil revenues. Yet, the dependency of a large number of states on federal transfers largely from oil revenue has led to the ascendancy of forces in support of centralization and shared rule, and this reality ruptured the NASS's earlier efforts to offer substantial concessions to the littoral states. Thus, while the federal legislators muted their partisan, regional, and territorial affiliations and interests to propose a legislation that would have seen the derivation rule applied to oil exploration from as far as the continental shelf, the redistributional politics of oil revenue sharing in a country in which additional revenues gained by oil-producing states become losses to non-oil-producing states threatened federal solidarity. Drawing impetus from the Kano Elders Forum (KEF), a powerful interest group in the northern part of the country that opposed the legislators' action, the governors of the region's 19 states mounted an open opposition to the political compromise. These actions alerted members of the legislatures representing these states and regions in the NASS to the potential cost of their actions, especially their constituencies potentially withdrawing support for their re-election. The fierce challenge to the initial political compromise by the country's

dominant political bloc, which regarded it as a threat to their interest, undermined the viability of the compromise coalition in the NASS. Even though Obasanjo had used the need to avoid conflict with neighboring maritime countries as a reason for vetoing the legislators' proposal, he was not oblivious to the political/electoral consequence of conceding extensive revenues to the federation's minority but littoral states to the disadvantage of the non-littoral but demographically and politically dominant states in the north. In trying to convince the oil-producing states to accept his proposed solution which would see littoral states receive derivation funds from offshore oil produced in the contiguous zone instead of the continental shelf, President Obasanjo argued that his proposal was necessary in order to carry out the territorial redistribution of oil revenues to non-oil producing states and ensure national cohesion. Obasanjo explains, while framing the issue using the ideas of shared rule and territorial solidarity:

> God did not make a mistake to put the oil in this region. He did not also make a mistake by telling you to share what you have with your brother. He also want[s] you to live in peace with your brother in Sokoto[99]... so God did not make a mistake in all that he did. It is just that he wants us to live like brothers and give a little of what you have to your brother otherwise there will be inequality which will create more problems. (Andoor 2003)

It should be noted that the landlocked state governors' opposition to the concession proposal was not a political ploy to gain their own concession, but was an emphatic refusal of what they perceived as a zero-sum deal. Any concession to the coastal states would reduce revenues to be shared by the whole federation and, more importantly, revenues to their own states. With this in mind, the fact that 19 northern states, together with three other states from the south (22 out of 36 states), instituted a legal action requesting the Supreme Court to quash the deal and declare it unconstitutional shows the extent of these states' opposition to the concession. It should also be pointed that these landlocked states' legal opposition to the claims of the littoral states did not even start after the concession, but originated during the federal government's initial legal reference at the Supreme Court, under which these states were joined as parties to the conflict. The federal government's decision in taking not just the 8 coastal states but all 36 states of the federation to court was a tactical political move to increase the level of pressure against the littoral states' claim and support for its own claims. The federal government made this decision in full knowledge of the landlocked states' investment in the position that the implementation of the derivation formula should not result in the coastal states benefitting from offshore oil revenues. The federal government's tactic worked effectively as the landlocked states capitalized on the platform to weaken the claims of the coastal states, with such a division in the 36 states' position strengthening the federal government's position.[100]

[99] Sokoto is one of the non-oil producing states in the north.

[100] It is not clear whether the justices of the Supreme Court took opposition by the landlocked states into consideration in making their decisions, as this was not explicitly stated in their judgement. However, these states were afforded the opportunity to make their positions known legally. This was a

This Nigerian case serves as a contrast to that of Canada, in which there was no groundswell of opposition by non-coastal provinces to offshore concessions, and in which the dominant pattern has been interprovincial solidarity in favour of coastal provinces' jurisdiction and legislative rights over mineral resources off their shores. The landlocked states in Nigeria not only vigorously opposed any concession to the coastal states, arguing that the concession was unconstitutional and would reduce revenues from offshore oil accruing to them, but had also twice legally challenged the claims of the coastal states. In doing so, they supported more federal government powers over mineral resources which they believe favor them. These states challenged the federal government and the littoral states in court over the final political settlement, which they felt was a giveaway of national revenues by the federal government to the littoral states, and also indicated readiness to revisit the issue through the NASS in 2012 before being discouraged by the president. Though the president overruled this agitation, the governors of the non-littoral states' 2012 suggestion that the NASS should revisit and reverse the 2004 offshore political settlement on the grounds that it was unfair to their states demonstrates how the perceptions of shared rule and self-rule are used as interpretive frameworks to justify authority allocation of power over oil. However, unlike the littoral states in Canada, who continued "exerting ever greater control over the Atlantic coast continental shelf through effective political pressure and public campaigns" even after two Supreme Court decisions in favour of the federal government (Roy 2012, 78), Nigeria's littoral states did not legally challenge the outcome of the Supreme Court's verdict, but rather appealed to the federal government for a political settlement. To be sure, in Canada, some provinces such as Saskatchewan and Ontario did object to the 2005 renewal of the Atlantic Accords that enabled Newfoundland and Nova Scotia to benefit from resource revenues without changes to their equalization payments. However, their objection was not an obstructionist opposition. Rather, though it was framed as a criticism of "side deals" (Lecour and Béland 2009), it was an assertion by these provinces that they deserved similar concessions from the federal government, with these provinces using the deals offered to Newfoundland and Nova Scotia as opportunities to request similar treatment.[101] Seen from this perspective, in both the Canadian and Nigerian cases, the differences in

deft political strategy to sway some of the Supreme Court justices, who came from these landlocked states, to the argument proposed by their home states, and by implication, that of the federal government. There is no evidence that these justices were influenced by the position of their states, but the allegation was raised by some commentators from the littoral states. It may be a coincidence, but the fact that the dissenting judgment in the reference came from Justice Karibi Whyte, himself from one of the coastal states, would tend to support the claim that the territorial origin of the judges played a part in their decision.

[101] This is not to underestimate the fact that side deals heighten conflict. As I argue later, and as Lecours and Béland (2010) aptly noted, side deals led to a spiral of demands that escalated conflict as other provinces sought similar concessions from Ottawa. Yet, the point made here is that the provinces' demands for offshore mineral rights did not elicit competitive pressures on their own, but did so when

how provinces/states perceive that the concessions affect them and the differences in their political mobilization to such perception stem not only from the incentives provided by formal institutional design allocating power over oil, generally speaking, but also from 'shared understanding' of what is appropriate, imposed by each country's individual dominant *ideational culture* of federalism.

8.5. Path Dependence and the Development of Institutional Rule over Offshore Mineral Resources and Historical Bases of Conflict: Federal Origin, Sequence, and Timing

Recent scholarship on federalism has pointed out that distinct political outcomes in federations emerge from, and are shaped by, the long periods of institutionalization of a particular country's federal institutions. These scholars have stressed the need to trace the trajectories of institutional origin, change, and persistence in order to fully understand comparative federalism (Benz and Broschek 2013). This echoes the historical institutionalists' position that politics should be viewed as a process that unfolds over a long period of time, and that "attempts to cut into ongoing social processes at a single point in time produce a 'snapshot' view that is distorted in crucial respects" (Pierson 1998, 30). As noted previously, the theoretical rationale, beyond its primary focus on formal and informal institutions, for the use of historical institutionalism for this thesis is that it gives adequate attention to the process of institutional development in its historical perspective, including the role of path dependence, increasing returns, positive feedback, and critical junctures, issues of timing and sequencing, and institutional origins in shaping the outcome of interest to be examined regarding institutions (Lecours 2005; Orren and Skowronek, 2004; Pierson 2004, 1998; Thelen, 1999). I argue that the political mobilization and conflict patterns concerning offshore oil in Canada and Nigeria are products of the distinct historical pathways or processes of federal institutionalization in both countries. The specific forms of conflict in each case are partly shaped by particular patterns of the historical development of federal institutions, the development of the oil sector, and choices made at certain critical historical moments. These factors result in varying 'fits' between different institutional layers; for example, between international rule on the continental shelf and domestic rule, or lack thereof, on offshore minerals.

8.5.1. Federal Origin

Path dependence can shape conflict dynamics via the divergent influence of the historical origin of federation units on bargaining power. Tillin (2015, 627) argued that "different patterns of federal origins produce distinctive institutional arrangements for intergovernmental relations which make some kinds of territorial change more likely than others, and close off alternative trajectories." In a sense, the nature of coordination of conflict not only reflected the differing powers of states and federal governments in both Canada and Nigeria, but the power of their respective governments themselves,

offshore revenue issues were linked with the equalization program, thus disrupting the solidarity that the provinces had previously shown with regard to offshore mineral rights.

primarily reflections of the constitutional division of power and ideational construct, also draws heavily from the historical origin of the provinces/states as members of their respective federations. The Nigerian states were first created by the centralized British colonial government, which created the original three provinces, and subsequently by successive 'federal' military governments through devolutionary processes that eventually increased the number of states to the current 36. These states had similar rights and privileges, as any territorial differences between them prior to federation would seem to have been wiped away by the homogeneity of unitary rule under which the original three regions had previously existed prior to federalization in 1954. As creations of the central government, these states did not have a particularly compelling claim to prior offshore territorial identities. Indeed, the littoral states' attempts to use their pre-colonial history to justify their claims of prior rights to the offshore domain were rejected by the Supreme Court of Nigeria in its 2002 judgement. As Justice Michael Ekundayo Ogundare noted in the lead judgement:

> [Although] until the advent of the British colonial rule in what is now known as the Federal Republic of Nigeria (Nigeria, for short), there existed at various times various sovereign states known as emirates, kingdoms and empires made up of ethnic groups in Nigeria, it was the British colonial rule that provided the central authority that bound together all the erstwhile separate states, emirates, empires and kingdoms that were dotted all over the land now known as Nigeria. [In turn,] the successor to the British Crown is the Government of the Federation of Nigeria. (Supreme Court of Nigeria 2002).

Thus, Nigeria's new states, including the original three regions, could not convincingly lay claim to any offshore resources that they brought to the federation as these had, since the creation of Nigeria in 1914, been vested in the British Crown. As successor to the British Crown, the federal government had assumed these powers, partially at federalization in 1954 and fully in 1963 when the federation assumed republican status. In fact, an agreement between regional and federal politicians mediated by the Colonial Secretary of State in London in 1958, the same year that the UNCLOS [1] regarding the continental shelf was signed, had vested 'ownership' and control of Nigeria's continental shelf in the federal government. Therefore, the issue of jurisdiction was essentially settled, as was the issue of revenue sharing during the First Republic, before the military intervention that dismantled that government and, subsequently, the fiscal compromises for offshore and onshore resource revenues in the 1960 and 1963 constitutions. The similarity of the Nigerian states' origin partly accounted for why none of them opted to negotiate alone with the federal government, as did the fact that one single form of political settlement was agreed for all of the littoral states.

Unlike the Nigerian states, the Canadian coastal provinces had existed as semi-autonomous states prior to their joining Confederation, with some provinces exercising significant control over their offshore

resources during this period.[102] The similarities between the coastal provinces could have warranted a joint negotiation and solution, as Prime Minister Trudeau had intended with his 1968 proposal and the 1977 Memorandum of Understanding. Yet, the fact that significant divergences also existed among the provinces regarding the degree of control they exerted over offshore resources prior to Confederation meant that attempting a joint coordination of conflict processes and concessions was unrealistic. Some provinces that considered themselves to have greater stakes and bargaining power[103] would oppose negotiated solutions if they perceived that the concessions offered too little or were unfair to their interests. Indeed, part of the reason that the 1977 Memorandum of Understanding was hampered by controversy from the beginning was Newfoundland's decision not to accept the terms that it believed were not sufficient to cover its interests over offshore resources. With the complete breakdown of the 1977 Memorandum of Understanding when Nova Scotia's new premier withdrew the province from proceeding with its implementation in 1978, attention shifted to Nova Scotia and Newfoundland, with their greater claims over offshore resources. The federal government eventually finalized an agreement with Nova Scotia alone in 1982, following Newfoundland's disagreement over the terms of the federal government's proposal that it considered unfavorable. Newfoundland's perception that it deserved more than the concession that had been offered, as a result of its different political history and extensive contact with its offshore region including the continental shelf (Martin 1975), motivated it to approach the court. The Newfoundland Appeal Court ruled in its favour regarding part of the territorial sea three nautical miles from the province's coast, while declaring that sovereign rights over the continental shelf belonged to the federal government (Gault 1985). The federal government's Hibernia Reference at the Supreme Court was decided in its favour, thereby affirming the Newfoundland Appeal Court's judgement. However, Newfoundland refused to accept this decision (Gault 1985) and instead continued with its political agitations for what it considered a favourable concession (Pollard 1986), with Premier Peckford declaring his "intention, following the Hibernia Reference, to seek a constitutional amendment to invest the Province with offshore petroleum jurisdiction" (Gault 1985, 76).

[102] Head (1968) stated that only two of Canada's provinces—Alberta and Saskatchewan—do not have coasts and thus do not fit this description. As stated in the previous chapter, these two provinces and Manitoba were created through devolution from the Northwest Territories, which was controlled by the federal government. The Northwest Territories were themselves a merger of Rupert's Land, which Canada bought from the Hudson's Bay Company, and the North-Western Territory, which Britain turned over to it (Government of Canada 2015). The three Prairie Provinces seem to be similar to British Columbia, which voluntarily joined Confederation and is thus a 'coming together' unit in contrast to the Prairie provinces, which are 'holding together' units. British Columbia, like the Prairie provinces, had no "experience with responsible government before confederation" (Smith 1991, 460).

[103] Such claims reflected the differences in the provinces' perceptions of the types of claims they could convincingly make, given the historical, constitutional, and political resources they believe they wield in support of those claims.

The case-by-case treatment of provincial claims also reflect the various situations of colonies that formed part of the federation. Though I have previously noted the differences between coming-together and holding-together federating units, there are also differences in the political and constitutional development of each of these broad categories of constituent units. These differences reflect, for example, the stage in their histories at which they assume the status of self-governing entities, and the effects of those developments on their control and regulation of offshore activities prior to joining Confederation. The geographical endowments of these colonies prior to joining the federation may also interact with their political and constitutional development. The differences in the status of these colonies is reflected in the fact that specific terms were negotiated and agreed for each province that entered the Union, either originally in 1867 or thereafter in addition to the uniform provisions that covered all provinces.

The different histories of the provinces prior to joining Confederation also account for the difference in degree of assertiveness of claims amongst the provinces. This in turn explains why Prime Minister Trudeau's wish, following the determination of the British Columbia reference in the federal government's favour, that the verdict by the Supreme Court would foreclose claims regarding offshore jurisdictional rights in other parts of Canada proved mistaken. Unlike British Columbia, which "had not exercised any authorities beyond the low water mark prior to joining Canada...the Maritime Provinces were active in the regulation of shipping well before 1867" (Dale and Mills 1979, 39). The complex and prolonged negotiations involved in the offshore claims of the Maritime provinces as compared to that of British Columbia partly[104] reflect the historical differences between the provinces, which led to different claims and perceptions of rights over their offshore regions, as well as different degrees of tenacity regarding those claims.

If the Maritime provinces' claims were unique, given their significant economic identification with their offshore areas prior to joining Confederation, Newfoundland was even more distinctive due to its wide expanse of offshore area compared to all the provinces and because, unlike other provinces, its late entrance into Confederation had granted it the status of Dominion before it eventually joined Confederation in 1949. This status was analogous to that of Britain itself and bestowed full sovereignty on Newfoundland, compared to the partial sovereignty of the colonies that had been formed earlier or joined Canada later. These unique features/characteristics are important reasons why Newfoundland,

[104] Claims by British Columbia were hampered by the moratorium imposed by the provincial and federal governments on offshore oil/gas development off the west coast of the province in 1971 and 1972, respectively (Cook 2005). The provincial policy proposed to ban the passage of Alaskan crude oil tankers through the Dixon Entrance, Hecate Strait, and Queen Charlotte Sound; the federal government's informal moratorium was imposed by refusing to approve new exploratory permits (Cook 2005).

rather than other coastal provinces, made more expansive claims and was more tenacious regarding these claims in a way that led to a longer conflict and a more difficult resolution. Other reasons include Newfoundland's dire economic situation at the time, and the emergence of provincial leaders who regarded offshore resources as the path to economic recovery and a change of economic status from 'have not' to 'have.' It was partly due to the interaction of these factors that Newfoundland refused to be part of the 1977 Memorandum of Understanding, which it considered not to have addressed its claims for jurisdiction and control; furthermore, it believed that it deserved to have those claims met due to its stronger position as compared to those of the Maritime provinces. Dale and Mills (1979) describe the dynamics at play in the different bargaining position of the Canadian provinces juxtaposed against their previous status either as colonies or dominion:

> As much as the Maritime Provinces' case for offshore minerals is stronger than B.C.'s, so much more so is Newfoundland's. As Britain's oldest colony, Newfoundland exercised jurisdiction over territorial water for many years prior to 1949 when it joined Canada. By that time, customary international law was moving rapidly towards acceptance of the 1945 Truman proclamation giving coastal states exclusive ownership over the seabed resources of the continental shelf. (39-40)

Indeed, Newfoundland's conviction of a stronger claim to its offshore was so strong that Premier Moores had threatened in 1975 that the province would "secede from Confederation, if necessary and come back" on terms more favourable to it in the event of a Supreme Court decision granting offshore resource control to the federal government (Swan 1976, cited in Dale and Mills 1979, 40; Blake 2015). Newfoundland did not secede, but did withdraw from the 1977 Offshore Mineral Resources Agreement. The Agreement eventually collapsed in 1978, even before it was implemented, as a new premier of Nova Scotia withdrew from participation (Dale and Mills 1979), thereby ending the attempt for a universal solution to the offshore case in Canada.

In all these cases, we see different degrees of assertiveness at play in the nature of claims, with Newfoundland insisting on bilateral rather than multilateral channels, and tenacity in sticking to its claim of significant control over offshore oil development. Newfoundland's intransigence, arising partly from its clamour for exceptional treatment as a result of its exceptional political and constitutional history, a claim that the Supreme Court found not compelling (Blake 2015; Gault 1985), contributed to the longevity of conflict in Canada, as did the refusal of the Trudeau government to give in to the province's demands or proposals for settlement. However, Newfoundland's 'wait and see' approach, or what Cullen calls a 'waiting it out' strategy (1990, 178), with the hope that the federal government would capitulate and agree to its terms for settlement, eventually paid off. This outcome was shaped by changes in government and decreases in international oil prices, which helped Newfoundland wrest a more favourable concession from the federal government, similar to what Nova Scotia received in 1982, through a separate accord it reached with the federal government in 1985. The Newfoundland

accord later became the yardstick/model for other provinces, including Nova Scotia, which renegotiated its own 1982 accord in 1986 to encompass the favourable terms negotiated by Newfoundland, and Quebec, with which it reached an accord in 2011.[105]

8.5.2. Contingencies

The term *contingency* here refers to chance and accidental events.[106] A contingent event is not an occurrence waiting to happen; rather, "contingency is a way of speaking about the unpredictable nature of final outcomes" (Mahoney and Schensul 2006, 461). Attention to contingency underscores the fact that agency is shaped not just by purposive human action but also by chance dynamics (Mahoney 2000). In other words, contingency can reorder actors' preferences. Contingency shapes purposive action by making a choice available rather than the alternative, thereby limiting the range of options from which agents have to choose or react to. However, the key point of contingency is not the uncertainty that it opens up per se, but the political choices and decisions over the 'rule of the game' taken during this period, which "points to the intrinsic plausibility" that alternative decisions or choices would have been made and a different institutional path forged had the historical contingency not taken place (Capoccia 2015). I argue that different degrees of contingency have different influences on conflict dynamics. For instance, a high degree of contingency would create openness for changes that would increase conflict intractability, as compared to low levels of contingency. However, the ultimate influences on the outcome of the political choices made during contingency on conflict periods are whether and how they are contested, in other words, the power distributional struggles (Thelen 2010) between actors representing the federal and provincial/state governments over choices and decisions made.

[105] The mirror legislations between both governments to kickstart the implementation of the accord were adopted in 2015. The Canada-Quebec Offshore Accord created a joint management board following the precedent set by Newfoundland, which is expected to oversee the management of the "more than 39 trillion cubic feet of gas and 1.5 billion barrels of oil" in the Gulf of St. Lawrence (Offshore Energy Today 2015).

[106] Contingency is often viewed within the context of critical juncture (Capoccia and Kelemen 2007; Mahoney and Schensul 2006). However, although I agree that a critical juncture may be a contingent event itself or may be a period for heightened contingency (Capoccia and Kelemen 2007; Katznelson 2003), I argue, as Collier and Collier (1991) did, that critical junctures, if seen to have taken place only when "a major event or confluence of factors disrupts the existing balance of political and economic power in a nation (Acemoglu and Robinson 2012a, 106), are not necessary conditions for contingency, and that contingent events can take place with or without critical junctures.

The discovery of oil was a contingency that shaped the conflict trajectory in Canada. For instance, the discovery of natural gas at Venture offshore in 1979 strengthened Nova Scotia's position and made it more ambitious in its claim (Clancy 2007, 116). The role of the discovery of oil as a spur to heightening provincial ambition can also be seen in the Newfoundland case, where, as in Nova Scotia, oil was discovered in the same year, 1979, at Hibernia (Clancy 2007, 116). Newfoundland's aggressive claim over its offshore resources, leading to the referral at the Court of Appeal of Newfoundland in February 1982, can be explained by the incentives that the discovery of commercial quantities of oil provided. The discovery of oil in the Hibernia field also influenced the federal government's May 1982 decision to institute its own reference at the Supreme Court of Canada to decide the order of government that has jurisdiction over the field. This escalated the conflict between the federal government and Newfoundland. As then-Justice Minister Jean Chrétien stated, the federal government decided to refer the case to the Supreme Court of Canada because the development towards commercial production at Hibernia was moving at a faster pace compared to negotiations with Newfoundland. This was causing uncertainty for oil companies regarding which regulatory regime already in place, the federal government's or Newfoundland's, would apply to them, and a quicker resolution of the case would solve this problem (Plaskin 1982).

Elections are another example of contingency shaping conflict patterns.[107] In both Canada and Nigeria, election cycles, or the very dynamics of electoral competition[108] under democratic systems that ensure a consistent turnover of politicians, provide important political factors to understanding the dynamics of conflict over offshore oil. However, the effect of this factor on negotiations over offshore oil varied in each country's case, as it contributed to the protractedness of conflict or deadlock in conflict resolution in Canada but helped break deadlock in Nigeria.

In Canada, the federal government reached an agreement through the 1977 Memorandum of Understanding with the three Maritime provinces over revenue sharing and joint administration of offshore mineral resources under federal ownership and control with these provinces. However, this agreement was stalled with the defeat of Premier Gerald Regan, who signed the agreement. The new

[107] Elections are considered contingency events here because, even though polls preceding elections may indicate the likely winner of an election, these predictions are not always correct. The 2016 US presidential election, for which polls were largely in favour of Hillary Clinton, but which was ultimately won by Donald Trump, is a reminder that electoral decisions are not over until after the elections.

[108] Though the emphasis here is on electoral turnover, I acknowledge that turnover can also occur from sources other than elections, such as the resignation of incumbent political office holders. However, such resignations, under a parliamentary system, often necessitate the new political office holder to legitimize his/her position through an early election or one that is based on an original timetable before the resignation of the original incumbent. Suffice to say that, while the resignation of an incumbent may be due to loss of popularity and thus fits into the broader electoral contest dynamics under which politicians are returned to office based on their popularity or vice versa, politicians have also resigned at the peak of their popularity due to ill health or other emergencies.

Premier, John Buchanan, repudiated the 1977 agreement within weeks of his election (Blake 2015; Crosbie 2003, 260; Starr 2011, 121). This disrupted the progress that had made towards conflict resolution and further lent support to Newfoundland's hardline stance in opting out of the agreement in the first place. The failure of the agreement gave new life to the conflict and firmly established the use of bilateral bargaining as a coordination mechanism.

A second example of the role of elections and government turnovers in conflict began with the June 1979 defeat of Pierre Trudeau's Liberal government by the Progressive Conservative candidate, Joe Clark. As Prime Minister and head of a minority Conservative government, Clark promised in September 1979 that his government would allow the provinces to "own the mineral resources off their shores and enjoy legislative jurisdiction over these resources comparable to their jurisdiction over natural resources located onshore, within their boundaries" (Starr 2011, 121; see also Harrison 1979; Crosbie 2003). Clark's promise emboldened the premiers of Nova Scotia and Newfoundland in maintaining their hardline stance on demands for complete proprietary and legislative rights over the offshore domain. However, Joe Clark could not implement his far-reaching promises, as he was defeated by Trudeau in the election of February 18, 1980, his government having earlier collapsed on a budget vote in December 1979 (Crosbie 2003, 260; Starr 2011, 121, 260). Returned to power after a brief stint in the opposition and at a time when oil prices were increasing as a result of the Iran crisis, Trudeau was determined to pursue a more centralist policy as response to the heightened international oil price hike, a determination he demonstrated by instituting the NEP. He was therefore not prepared to give effect to Clark's promise, arguing instead that the issue of offshore resources should be addressed as part of a constitutional review (Crosbie 2003, 260). This development ended any hope that the dispute would be quickly resolved to the satisfaction of all parties. Even though Nova Scotia would later sign an agreement with the federal government in 1982, Newfoundland found the agreement inimical to its interest and insisted on its demands for ownership and control rights, while approaching the Newfoundland Court of Appeal in the same year for interpretation of these rights when negotiations stalled.

Leadership turnovers led new governments, as distinct from those that signed agreements or made commitments, to default using the incentives provided by the ad hoc nature of political accords under executive federalism (Cullen 1990). Alternations in government and shifting positions of first ministers over offshore mineral rights created further ambiguity over which, if either, commitment was binding: Trudeau's of 1977 or Clark's of 1979. Premier Peckford drew attention to this ambiguity when he stated during the First Ministers' Conference on the Constitution of September 1980:

> If the federal government recognizes and acknowledges…the Maritime Agreement…of two or three years ago, then they have an obligation to recognize Prime Minister Clark's letter the same way because neither has been ratified by Parliament and one is just as valid in its way as the other is in its way. So, if we are going to talk about agreements between governments, then there are a number of agreements that can

> be acknowledged which should be put on the table all or at the same time. (Federal-Provincial Conference of First Ministers on the Constitution 1980, 420-421)

Because these negotiations were not single events, but political processes that unfolded over time, the time lag between the Maritime provinces signing the agreement with the federal government in 1977 and its implementation led to a change of preferences that in turn raised the stakes of the conflict, as Premier Richard Hatfield of New Brunswick noted during the September 1980 First Ministers' Conference.

It is true that the dynamics of the relationship between preferences could go in the opposite direction, as new leaders simply inherit the preferences of the previous leaders committing their states to a particular program or policy. As Pierson's (1998) study of the European Union demonstrates, decisions by previous political leaders could bind new ones who may consider the terms of the agreement unacceptable to the government and people they represent, but would be unable to default due to the inherited preferences of the previous government. Under this situation, an electoral turnover does not really change anything for the new government because, although they are eager to modify existing policies to suit the changing circumstances or their own preferences, they are nevertheless constrained by the locked-in legacies of inherited negotiated commitments of previous governments, which they are bound to obey or which they cannot change due to the high cost of default. Alternately, as the Canadian case showed, attempts by a new leader to default on an agreement reached earlier by his/her predecessor can also trigger conflict, as the case of Prime Minister Harper and the Atlantic provinces demonstrated.

The dynamics of minority governments are a main reason for the significant effects of elections on conflict dynamics. For instance, Béland and Lecours (2012, 4) noted that "the level of intergovernmental conflict over equalization reached its climax during the minority government of Paul Martin (2004-2006) and the first Stephen Harper minority government (2006-2008), when the federal program became a highly contested issue used as an electoral tool by both provincial and federal politicians." Given their minority statuses, these governments, desperate to shore up their electoral map, eventually caved into provincial demands on equalization that gave these provinces generous concessions. For instance, even though Prime Minister Martin had refused to agree to Danny Williams's request for the removal of Newfoundland's offshore resources in the calculation of its fiscal capacity, he eventually caved in "at the eleventh hour" (Dunn 2005, 10) by renewing the 1985 Accord (and the 1986 Accord, for Nova Scotia), "which provided full compensation for any reduction in equalization payments resulting from increased revenue linked to offshore resources" (Béland and Lecours 2012, 6). As elections drew nearer and the opposition Conservatives and New Democrats agreed to the proposal of Danny Williams, who had galvanized Newfoundlanders to "vote only for those who supported his stance" on the offshore revenues issue, Martin was under immense pressure to act fast or lose the votes of two provinces in Atlantic Canada. This region was one-third of "the three-legged stool of Liberal electoral success" (Dunn 2005,

9), along with Ontario and Quebec. In 2006, Stephen Harper promised not to include non-renewable resource revenues in the computation of provincial fiscal capacity for equalization, expressing this promise in a written letter clarifying the Progressive Conservative Party of Canada's policy initiative regarding Newfoundland.[109] However, he later defaulted on that promise by imposing a cap on allowable equalization benefits, a decision he justified using the report of the O'Brien Panel set up by the previous Martin government to reform equalization. In any case, the inclusion of the cap provision essentially abrogated the accord Martin had reached with these two provinces, which provided for full compensation against any reduction in equalization payments that may result from increasing offshore oil revenues (Béland and Lecours 2012). This heightened the conflict between the federal government and these two provinces, particularly Newfoundland, where Williams initiated the ABC campaign during the 2008 election as a response to Harper's 'betrayal' of the province.

The salient point of these two examples is the incentive provided not just by elections but the logic of minority governments operating under high uncertainty of re-election, with the provinces capitalizing on the minority governments' precarious situation and desperate quest for votes as bargaining chips to wrest favourable commitments or concessions from the federal government. Operating already under precarious situations as minority governments, the fact that these governments were faced with another predictable event such as elections further weakened their bargaining power. As Béland and Lecours (2012, 6-7) noted: "In the context of minority governments looking to please the electorate of specic provinces, federal politicians have found it hard to resist offering "guarantees" or "special deals" on equalization and fiscal federalism more broadly… This overtly political approach stood in sharp contrast with the ten previous years of majority Liberal government, when equalization seldom entered the political debate as its management was mostly left in the hands of Department of Finance experts."

However, conflict the signing of the 2005 agreement spirralled its own round of discord as other provinces, particularly Ontario and Saskatchewan openly criticized the equalization deal, either due to the perception of being omitted from the concession granted to Nova Scotia and Newfoundland, or their peception that the special deal between these provinces and the federal government disrupted the normal working of the equalization program (Lecours and Béland 2010). For instance, Ontario Premier

[109] A January 2006 letter to Premier Danny Williams written and signed by Harper, then Leader of the Opposition, stated that "a Conservative government would also support changes to the equalization program to ensure provinces and territories have the opportunity to develop economies and sustain important core social services. We will remove non-renewable natural resource revenue from the equalization formula to encourage the development of economic growth in the non-renewable resource sectors across Canada. The Conservative government will ensure that no province is adversely affected from changes to the equalization formula."
http://www.releases.gov.nl.ca/releases/2006/exec/01harper.pdf

Dalton McGuinty argued that the deal shortchanged Ontario residents whose taxes fund the equalization: "What it essentially means is that we will, through our contributions to equalization, ...end up providing funding to the people of Newfoundland and Nova Scotia that will enable them to exceed their wealth on a per capita basis, beyond that of Ontarians" (CBC News 2005). He further argued that the deal was not fair, and demanded similar special deals for other jurisdictions. The conflict, arguably, would not have arisen had the initial assumption regarding the development of the offshore industry and the two Atlantic provinces' benefits materialized, in which case "the equalization-offset payments could have protected the principal-beneficiary purpose" of the Accord (Government of Newfoundland and Labrador 2003, 121). In all these development, the conflict-shaping nature of historical contingency is clear. On one hand, Newfoundland's and Nova Scotia's demands for a revision of the Accords partly emerged from the disappointing fact that the time-sensitive offset payment was dissipated without really achieving its overarching purpose of making these provinces the "principal beneficiar[ies]" of their resources as originally intended. On the other hand, the conflict that followed the 2005 Accord was partly a logical consequence of the conflict before the Accord was signed, itself triggered by the delayed timeframe of offshore resource development, which was not anticipated when the Accord was signed.

Fluctuations in the international price of oil formed another contingency affecting oil conflict. The radical oil price increases of the 1970s and 1980s, for example, led to a heightened interest in the federal government's development of frontier regions in order to generate more oil revenues, but this put the government into conflict with the government of Newfoundland (Fossum 1997). Contingent oil price increases outside the context of this critical juncture also influenced conflict dynamics. For instance, contingent events can influence a political leader to break an agreement he/she had previously made. For example, Paul Martin had wanted to renege on the purported promise he made to Newfoundland Premier Danny Williams in their telephone conversation. Part of the reason for Martin's decision to go back on the agreement, as Dunn (2005) has pointed out, was his desire for the federal government to benefit from rising oil prices. Dunn (2005, 8) noted that rising oil prices during this period were part of the incentive for Martin's government to reassess the agreement with Williams in order to protect Newfoundland's offshore oil revenues. This need to reap oil windfalls is a key example of how "petroleum politics bring out the law of the jungle in Canadian federalism," preventing negotiations over oil from being bound by "the genteel rules that govern other aspects of intergovernmental relations" and making oil conflict a case of "survival of the fittest" (Dunn 2005, 8). However, the effect of oil price fluctuation was not altogether negative. Falling oil prices that coincided with the change of government from the Liberals to the Mulroney-led Progressive Conservative Party opened the window for a settlement of the offshore conflict, which had become an impasse following the Supreme Court's ruling in the Hibernia Reference of 1984. Though prior to becoming the prime minister, Brian Mulroney had promised to restore relations with the provinces (Pollard 1986), it is debatable whether he would have granted the kind of generous concession that the Atlantic Accord of 1985 had to Newfoundland if

oil prices had continued to increase as they had when the NEP was introduced.

As noted earlier, in Nigeria, contingency also influenced the choices taken by political actors with regard to offshore oil. While there were heightened contingencies following the military takeover of government in 1966, with contingency merging with civil war and the international oil price crisis of the 1970s, and these events triggering the critical juncture for heightened decision making, military intervention mooted conflictual reactions to the changes regarding offshore oil during this period. Thus, it was the contingencies that opened up with the return to democratic rule in 1999 that brought out the political-distributional conflict over offshore oil. Carl Levan (2015, 104) addressed one of these contingent events when he noted the role played by "new oil discoveries" offshore propelled by "major advancements in exploration technology." Country Watch (2017, 27) explains that "in 2001, Nigeria entered a new phase of oil exploration with the commencement of offshore deepwater drilling (in over 6000 feet of water)" and "most of this oil's potential lies in the water off the Niger Delta region." This made offshore oil revenues more important than they had been before. However, advanced technology that made deeper offshore production possible was not the only reason for the desirability of offshore oil production. Conflict in the Delta, which made onshore exploration and exploitation difficult, provided another incentive to shift exploration offshore. Faced with production losses from the onshore fields, the federal government was determined to offset these losses with production from the offshore fields, which at the time were more secure, and this contributed to the onset of the conflict.

However, another contingency related to election[110] emerged that contributed to the quick resolution of the conflict, rather than escalating it. Following his veto of the NASS Bill in December 2002, President Obasanjo was pressured by governors and civil society groups representing the littoral oil-producing states, who insisted that they would not support his re-election bid in 2003. The governors not only claimed that the south-south zone would reject Obasanjo just as he rejected the abolition bill, but also that they would consider supporting one of their own for the presidency instead (Amaize 2002a; Nzeshi 2002). Also, several Niger Delta opinion leaders who had organized under the aegis of the South-South Peoples Conference (SSOPEC) vowed to block the re-election of President Obasanjo as punishment for working against the interests of the Niger Delta. Indeed, this powerful organization, made up of prominent Niger Delta opinion leaders, threatened to withdraw support for any governor from the oil-producing states who supported Obasanjo's re-election because "the interest of the region takes precedent [sic] over their party" (Amaize 2002b). Speaking for the group, Chief Edwin Clark, chairman of the Central Action Committee of the SSOPEC, asserted that "the South-South people have decided not to vote for Obasanjo and the issue of giving him a second chance does not arise...Even if we do not

[110] I have previously broached the role of the electoral factor in Nigeria. Here I elaborate on this mechanism.

have control over PDP, we will have control over our people when the votes of the South-South people are to be counted" (Amaize 2002b).

The above threats loomed large as the 2003 election drew nearer. Consequently, after over one year of executive-legislative deadlock over the abolition of the onshore-offshore oil dichotomy that began with the submission of the original bill in February 2002, the president submitted another bill about two months before the 2003 general election. With the impending elections and warnings from the SSOPEC that they would reject any governors who supported his re-election, "Obasanjo faced...six southern governors who were furious about his handling of the resource control issue, which could sink the PDP's prospects" in the Niger Delta region (LeVan 2015, 105). Facing political ostracization by their own people, the Niger Delta state governors were desperate to come up with a consensus solution, which they would present as evidence of the success of their struggle to protect the interests of the region and as proof they deserved re-election. Faced with angry Niger Delta state governors, a National Assembly whose members, despite mostly being members of his own party, did not agree with his solution to the offshore oil controversy, and a

> popular challenger from the north, Mohammadu Buhari, who had come out for abolition of the onshore/offshore dichotomy…Obasanjo had no choice but to bring the PDP together, if either he or the majority of the NASS were going to survive the upcoming elections. The administration resolved the impasse by tactfully brokering a compromise with the governors to extend the territory of the littoral states...This mended the party rift and reversed Obasanjo's electoral fortunes in the south-south, where he won between 84 and 98 percent of the vote a few weeks later. (LeVan 2015, 105)

Obasanjo's submission of the bill abrogating the offshore-onshore dichotomy only a few weeks before the election was intended to win the support of the governors and people of the Niger Delta, as they would see the prospect of having the bill passed tied to the renewal of Obasanjo's presidential mandate during the 2003 election. In addition, submitting the bill on the eve of the election meant that it would not be acted upon before the election. These delay tactics helped to protect federal legislators from the non-oil-producing states, especially in the north, from the electoral retribution that would arise from the perception that they had 'sold out' or were not proactive enough by supporting the resubmitted bill against the interest of their states and regions. Whether or not it was a deliberate political strategy, the timing of the president's submission of a new bill to the NASS, which made it impossible for the bill to pass before the expiration of the legislative term, helped Obasanjo gain the support of the Delta while retaining the support of the non-oil-producing states in the north. This could have been a crucial factor against the ANPP candidate Mohammadu Buhari, whose main electoral base was in the north. Also, the timing of the submission of the bill and its non-passage before the election allowed lawmakers from the north, who were accused by their state governors of failure to protect their states' interests when they supported the granting of far-reaching concessions to the littoral states, to save face.

The re-election of the Niger Delta state governors and legislators was also at stake, and this was an important reason to accept Obasanjo's proposal, which was quite similar to the one that the legislators had previously modified. Having received threats of civil society groups withdrawing support for them if they supported President Obasanjo's re-election, the governors were also aware that a new deal such as Obasanjo's, though not as expansive as they had wished, would potentially mollify the citizens and earn their support in the general election. That an unpopular phrase—200 metres water depth isobaths—whose meaning would be confusing to many was used to describe the limit of the offshore realm in the new proposal worked in the governors' favour, as the real extent of the concession was not clear to many. However, despite its opportunistic undertones, the governors' acceptance of the president's proposal was a pragmatic decision on their part, meant to put a quick end to a thorny issue that threatened to create a rift between them and the citizens of their states. Also, in accepting the president's second proposal, the governors must have rightfully reasoned that insisting on the president's assent to his original proposal, which was modified by the NASS, would come to naught given the opposition from the non-littoral states.

From the above, the higher degree of conflict intractability in Canada as compared to that of Nigeria can be partly explained by the high number of contingent events Canada experienced during the period of offshore oil conflict, with these events shaping the actions or choices of provincial and federal actors at a particular time in ways that affected future choices and actions. Early in the development of its offshore oil industry, Nigeria experienced a high degree of contingency based on the critical junctures of military rule, civil war, and an ongoing oil price crisis. However, military rule mooted this conflict, as the littoral states were unable to contest the central military government's actions and changes to the derivation rule. During its return to democratic rule, Nigeria did not experience high contingency, and was thus relatively immune to the convoluted conflict spirals that Canada experienced. A contingent event, in the form of conflict over onshore oil, partly influenced the federal government's interest in offshore oil and its desire to increase the revenues that would accrue to it at the expense of the littoral states. This partly triggered the offshore conflict, but another contingent event, an impending election, contributed to fast-tracking the conflict's resolution. This unravelled the executive-legislature show of strength that had stalemated the political solution and threatened to prolong the conflict. The fact that intergovernmental bargaining in Nigeria took place via the formal mechanism of separation of power ensured that the president's proposal for the final political solution, even though it was submitted shortly before the election, which meant it could not be passed until after the election, was not reversed following the election.

8.5.3. Timing and Sequence

As scholars of historical institutionalism have argued, the theoretical rationale for focusing on historical process include attention to timing or sequencing, and the path dependent or positive feedback they

generate (Mahoney and Thelen 2009; Mueller 1997; Pierson 2000, 2004; Thelen 1999, 2000, 2004). The conflict over oil demonstrates this. For Canada, the federal government's claim over offshore oil in a context in which provinces already had first-mover advantage and thus became powerful self-interested actors pushing to consolidate their early advantages in the oil policy area. The provinces' roles as primary actors in the onshore natural resource domain, a competence they assumed on attaining responsible self-government and which was affirmed at Confederation in 1867, created increasing returns that helped entrench their powers in the field and, in turn, their capacity to resist the federal government's claim over offshore resources almost a century later. Thus, even though the courts affirmed the federal government's jurisdiction over offshore oil, necessitating some adjustments over ownership, the provinces were able to resist radical changes to the existing onshore regime beyond ownership, which the federal government retained. At the same time, the costs of transition from the prevailing system of provincial jurisdictional competence over onshore oil to one of federal jurisdiction over offshore oil might have proved prohibitive. Before offshore oil became an important resource, the entrenchment of provincial power/authority and provincial rights over oil was so widespread that it became difficult to shift to a different authority relationship. The provinces used their original power over offshore oil to carry out province-building ventures, which made it easy to embed themselves in society as a whole.

In Nigeria, the federal government has had jurisdictional rights over ownership and control/management of oil ever since state formation in 1914 and federalization in 1954. In addition, ownership and control/management on the one hand and revenue sharing on the other have co-evolved over extended periods. All of this made it easy for the federal government to maintain its early mover advantage in these areas. Unlike provinces in Canada, the Nigerian littoral states were not able to create, over time, a coalition sufficient to force the federal government to make large institutional changes regarding offshore oil beyond the revenue sharing in which they had participated since the discovery of oil in Nigeria.

Finally, from a historical institutionalist perspective, the differences of timing, or the temporal dimension, can be fruitfully viewed from the basis of the varying influence of time on the emergence of the two institutional fields of onshore and offshore mineral resources, and particularly whether the different layers of institutions were complementary or clashing/abrasive.

Amable (2016, 79) enjoins us to view *institutional complementarity* not in terms of institutions "as some sort of inputs in a production function," with "institutional forms fitting perfectly with one another…but as socio-political compromises established in historically-specific conditions." Seen from this perspective, Nigeria represents a case of institutional complementarity between onshore and offshore oil regimes. Yet, as Amable (2016, 85) noted, institutional complementarity is hardly a product of "a grand design" but rather of chance. Thus, while the institutional rules governing onshore and offshore

oil were not created simultaneously, the fortuitous discovery of onshore oil at the time that international law regarding the continental shelf had developed provided the opportunity for politicians to devise offshore oil rules in a way that led to a 'fit' between both oil policy areas that helped prevented substantial friction between them. Indeed, the same authority pattern allocating jurisdiction over onshore oil was adapted for offshore oil not only to conform to international law, but also to create uniformity between the two oil policy fields. This does not mean that once created, institutional complementarity necessarily reflects stasis (Amable 2016). As the Nigerian case demonstrated, some changes were made to the institutional rules concerning offshore oil, beginning with the reduction of the states' share of offshore revenues from 50 percent to 45 percent in 1970, and the 1971 entrenchment of the onshore-offshore dichotomy, under which both onshore and offshore oil revenues were returned to the region of origin, based on the derivation rule, was discontinued. The result was that only onshore oil revenues went to the states, while the federal government kept revenues from offshore oil production. The most recent iteration of these changes before the 2002 conflict was the silence in the 1999 Constitution regarding offshore oil, which created uncertainty over whether the military decree of 1992 reinstated the application of the derivation principle to offshore oil revenues, or whether the constitution gap meant a continuation of the 1971 practice. Thus, an accent on institutional complementarity does not render change impossible (Amable 2016), but it can help to narrow the scope of realistic claims that political actors can make; this in turn can potentially prevent competitive pressure from erupting into conflict, as was the case in Nigeria.

In Canada, the role of temporality in the emergence of institutional rules over the different oil policy areas was more marked, a fact that helps to explain the higher level of conflict intractability. The concept of *intercurrence,* borrowed from the scholarship of American Political Development (ADP), can help us better understand the effects of the incongruous historical/temporal sequence of the emergence of onshore and offshore oil policies on conflict dynamics. Orren and Skowronek (2004, 118) define intercurrence as follows:

> The simultaneous operation of different sets of rules, to a politics structured by irresolution in the basic principles of social organization and governmental control, and it describes the disorder inherent in a multiplicity of ordering rules. [while] intercurrence, like multiple traditions, entails different principles of control...it [however] identifies these in the operation of specific institutional forms; [hence] it is not the historical juxtaposition of different ideas or traditions that is critical but the historical juxtaposition of differently constituted governing authorities, which may be created, modified, and displaced without any discernible effect on traditions.

The insight that this concept brings is the possibility that the various institutions and policies of a polity emerged at different points in time, driven by different political power plays, and this imbues them with different operational logic (Fioretos et al. 2016, 12). Applying this concept to oil policy in Canada draws attention to the fact that different types of oil, such as onshore and offshore, may be formed at

different times, each following its own logic of operation (Fioretos et al. 2016, 12). This helps explain the divergent forms of institutional development between different dimensions of the same oil domain. The attention to the non-simultaneous development and progress of institutions and policies forces us to consider that, rather than "stable or neatly integrated political orders" (Orren and Skowronek 2004, 12), institutions are characterized by "multiple, incongruous authorities operating simultaneously" (Orren and Skowronek 2004, 108); this "simultaneous operation, or intercurrence of different political order" is often infused with inbuilt tension and conflict that sometimes border on irresolution (Orren and Skowronek 2004, 17). Because of the incentives they provide to political actions and mobilizations, and the expectations of appropriate political behaviour, contradictory rules or authority patterns governing particular institutions or policy fields can lead to conflict. The conflict over offshore oil in Canada was, in a sense, a conflict over different authority patterns over two types of oil whose relevance occurred at different historical/temporal periods. The Constitution Act, 1867, is silent on offshore mineral resources, even though the provinces have primary constitutional responsibility for land and natural resources on land, which by implication includes oil found on land or onshore oil. In venturing into the offshore field, the federal government has traditionally justified its action by pointing to its constitutional competence in analogous ocean policy areas such as fisheries, navigation, defence, and external affairs, as well as the jurisdictional rights vested on it by international law (Martin 1975). Also, Canadian provinces, especially since the 1950s, have also claimed rights over offshore minerals, insisting that competence over the offshore domain is an extension of their constitutional authority over onshore minerals. These competing interests, in the context of constitutional ambiguity, led to the federal government's reticence in staking its claim early on, with this reticence providing the opportunity for provinces to stake their own claims, and with these incompatible claims leading to federal-provincial conflict.

The greater resilience of the provinces of Canada with regard to claim-making, as compared to the states of Nigeria, led to a greater propensity for change, and also a higher degree of conflict intractability. This resilience can be partly explained by the contradiction of rules between the two institutional spheres of onshore and offshore, which was itself partly influenced by the substantial difference in timing or sequence in which these two sub-policy fields appeared in Canada. In Canada, onshore oil was developed first, with competency over this sector allocated to the provinces. There was a time gap of over a century between the discovery of significant quantities of onshore oil, with the first successful oil discovery in Oil Springs, Ontario in 1858, and of offshore oil, with the first discovery of natural gas at Onondaga, south of Sable Island, in 1969 (Nova Scotia Department of Energy, n.d.). The provinces were therefore able to 'cover the oil field' with incremental development of these resources, and in turn the entrenchment or 'lock-in' of their constitutional power over these resources. Consequently, until the emergence of offshore oil as an important interest, the federal government's complete entrance into the offshore field was fiercely resisted by the provinces, though offshore oil was

believed to be generally within the competence of the federal government as it bordered more on international than national arrangements. Even though the courts later affirmed the federal government's role in the field, the federal government was forced to restrict itself, given the institutional logic already in place, to playing a complementary role with the provinces instead of being the dominant actor. By contrast, in Nigeria, both onshore and offshore oil were exploited simultaneously. Onshore and offshore oil were discovered within a few years of each other, the former in 1956 and the latter in 1963. Thus, Nigeria did not experience the kind of rule contradiction between offshore and onshore resources that could serve as a basis for heightened clashes between federal and state governments.

The effects of timing and sequence can also be seen in the development of onshore and offshore oil as compared to the development of federal institutions. In fact, though it did not discover both onshore and offshore oil simultaneously, Shell Petroleum did prospect for both when it won exploration rights that initially covered the whole of Nigeria. Oil was discovered in Nigeria at a time when international attention was being drawn to the continental shelf as a reservoir not only for fish, but for oil, and it was not long after the 1956 discovery of onshore oil in commercial quantities, that offshore oil was found in 1963.

Pushing this insight further, and bringing us to a better appreciation of the different path of change and conflict over offshore oil in Canada and Nigeria, we can examine the tension between domestic and international institutional logics as the basis for authority allocation of power over offshore oil. The choice was starker in Canada, in which authority allocation over domestic or onshore oil was diametrically opposite that of international offshore oil. The divergence between these two institutional logics made the choice more difficult, as applying the international rule to the offshore domain required abandoning the alternative domestic rule as applied to the onshore domain. The latter had become entrenched, due to its early institutionalization, as the standard operating procedure for the oil policy field as a whole. The tension between these two institutional logics contributed to conflict intractability in Canada. A radical switch from a path in which the provinces had an early start and advantage to one in which the federal government would have primary powers and responsibilities would therefore prove costly, or even impossible. Prime Minister Lester B. Pearson seems to have demonstrated his awareness of the fact that due to the primary role of the provinces in onshore oil, a radical reordering of the offshore domain to favour the federal government, as affirmed by the courts and in conformity with international law, would require a complete reversal of existing institutional rules over natural resources in general, and this would be costly and near-impossible to carry out. In other words, he was aware that a judicial decision in the federal government's favour would be a pyrrhic victory, as it would not end the conflict. Accordingly, he was prepared from the beginning, even before the Supreme Court's verdict in the 1967 British Columbia Reference, to negotiate a settlement with the provinces after the

jurisdiction issue might have been settled by the courts. Though his successor, Pierre Trudeau, had promised to carry on the negotiated settlement that Pearson had promised, he was not prepared to enter into negotiations with the provinces as equal partners and preferred instead to impose the federal government's proposal on the provinces in order to force them to recognize Ottawa's sovereignty and rights over offshore oil. However, provincial resistance, especially from Newfoundland, disrupted his plan for a hierarchical and multilateral mode of coordination, and he was forced to enter into negotiated political settlements with the provinces under a decentralized and bilateral mode of coordination (Blake 2015).

The institutional logic in Nigeria was different from that of Canada, with a convergence or compatibility between domestic federal rule over onshore oil and international rule over natural resources in the offshore bed. The design of domestic rule over offshore oil was already in congruence with international law practices and rule at the time offshore conflict ensued between the federal and state governments during the 2000s. The federal government's sovereignty over the territorial sea and sovereign right to exploit the mineral resources in the seabed of the continental shelf were similar to already existing institutional patterns granting exclusive ownership and control over onshore oil to the federal government. The bone of contention in the conflict was, therefore, not the question of "Who owns the Nigerian Offshore Seabed?" as Egede (2005) puts it, but a determination of whether offshore revenues could be used to apply the 13 percent derivation formula as with offshore oil, since the 1999 Constitution is silent on this issue. Although the oil-producing states had raised the issue of resource control during this period, political mobilization did not transfer to the legal realm, and over time, elected politicians representing the states soon dropped their open campaign for resource control, even though non-state actors in the oil-producing region continued to mobilize for it. Thus, unlike Canada in which the issues of proprietary rights, claims of control, and revenues were all in play, the key issue in the offshore conflict in Nigeria was revenue sharing. Since 1958, the federal government and the three regional governments have agreed that jurisdiction over offshore mineral rights would rest with the federal government. The fact that a part, concerning revenue sharing, and not the whole essence of the settlement of 1958 was the true issue in contention in the offshore conflict is an indication of the absence of significant dissonance between domestic rule and international law over natural resources jurisdiction, as well as the similarities of rule for both onshore and offshore oil that made a radical switch between institutional paths unnecessary. The relative convergence between the domestic institutional rule over onshore minerals and the international rule over offshore mineral rights is important in explaining the limited nature of conflict over offshore in Nigeria, and its largely conscripted mode of institutional change. In Canada, on the other hand, the greater dissonance between domestic rule and international law created a greater scope for change, and with it a greater potential for conflict. This is especially true in the case of Newfoundland, which used its existing institutional arrangement covering onshore natural resources and its unique historical and political development in

order to exert concessions from the federal government. In granting these concessions, the federal government was aware of the high political cost in radically abandoning the decentralist regime of onshore oil, which favours the provinces, to a centralist one, dictated by international legal regimes, which was in its own favour. The joint management regimes in Canada reflected a compromise over this tension.

The potential for conflict in the tension between the domestic and international realms, as noted above, exacerbated the conflict to the point that it became difficult to defuse, because institutional design over oil is, in practical terms, an overlapping one rather than one in which one level of government has a determinate veto. This indeterminacy in veto power over the oil policy field thus served to increase the complexity of clashes between the multiple orders of onshore and offshore regimes, which further complicated attempts at conflict resolution.

8.6. Conclusion

The Canadian and Nigerian examples of offshore oil conflict demonstrate how the interaction of institutional rules, both formal and informal, and political processes as well as the macrostructural factors of the polity within federal isntituions are embedded can lead intergovernmental relations of different federations not only to follow the overall institutional paths earlier established in these federations, but also their further entrenchment, echoing historical institutionalists' notion of path dependence, and the mechanisms of increasing returns and self-reinforcing processes. In other words, in both federations, we notice a fundamental symmetry, rather than a departure, between institutional rule over onshore and offshore. Reflecting the institutional legacies of onshore oil, the direction of this convergence is asymmetrical when seen from a comparative perspective; Canada's offshore regime follows a decentralist or dual model of power allocation, where Nigeria maintains an overall centralist authority pattern. This study shows that with the marked ambiguity over the offshore domain, Canada placed a greater reliance on normative federalism to fashion the institutional design that shaped political compromises than Nigeria, which experienced less rule ambiguity.

Yet, though institutional path dependence, or "history's heavy hand" (Ikenberry 1994), can "narrow conceptually the choice set and link decision making through time" (North 1990, 98), or 'redirect' a new institutional path to mimic or follow established paths, as evident in the political compromise over offshore claims in Canada and Nigeria, the outcome of this rebalancing/reorientation act or reframing of policy problems is not a foreordained act or "a story of inevitability in which the past neatly predicts the future" (North 1990, 99), as the constant negotiation and renegotiation of the terms of the political compromise aptly demonstrated. The dialectical nature of the negotiations is an indication that these negotiations are carried out by political actors with conflicting interests, preferences, and values. The negotiations are themselves constrained or incentivized by institutional, historical, and socioeconomic

milieux; similarly, the interests of political actors change with time and context, even within the same country, and the institutions they represent contribute to their understanding of their interests and the resources that allow them to pursue those interests. The negotiations thus become political processes that are deeply imbricated with unequal power relations.

A part of the conflict must be understood against the backdrop of constitutional provisions, or lack thereof, regarding offshore development from the beginning of these federations, including their pre-federation relationships with the domain of offshore resources. Nigeria's constitution included an explicit provision regarding jurisdiction and benefit rights from offshore resources. Thus, conflict was significantly mooted and moderated, as the constitutional provision served as a check to the extent of claims that the states and federal government could realistically make. By contrast, Canada had no such explicit provision in its constitution regarding offshore resources. As a result, claims to jurisdictional and benefit rights for offshore resources were largely based on the perception of justifiably transferring the provinces' constitutional rights over onshore resources to offshore ones, based on the provinces' pre-Confederation control of activities in their offshore areas. Provincial claims of rights increased according to how strongly they perceived their relationships with the offshore domain before joining Confederation. The silence in the original constitution regarding offshore mineral rights created rule uncertainty, which in turn created a particular dynamic for conflict and resolution. For instance, the absence of formal constitutional rules created enormous room for the Canadian provinces to maneuver and support their claims using historical antecedents of their intimate economic ties with and control of their offshore areas, as well as legitimation based on the perception that the constitution had envisaged the transfer of onshore power and rights to the offshore realm, even without explicitly stating so. The reinterpretation of the existing constitutional division of powers over onshore oil and their extension to the offshore realm, where the division of power was unclear, was therefore a significant act of legitimation. The fact that they were able to successfully mobilize their citizens behind their position using these informal means shows the incentive structures to act strategically that the ambiguity of constitutional rule over offshore provided provincial premiers.

This analysis also reveals that, while we must look at the salience of institutional-constitutional structures and ideas in historical time, we must also give attention to the role of political agency in order to produce a more convincing account of institutional changes and historical processes. The significant role of institutional actors in influencing institutions to achieve specific ends should not be glossed over, as these actors "influence the direction of institutional change" (Greif 2006, 189) and, I will argue, ultimately, conflict dynamics arising from that institutional change or persistence.

A useful indication of the mediating role of agency on conflict dynamics is the divergence of conflict patterns, even in the same federation, as the example of Canada vividly demonstrates. Thus, even though both Newfoundland and Nova Scotia drew on similar federal institutional designs and ideas of

self-rule over onshore oil in making their claims for offshore oil, which could have led to homogeneous conflict outcomes, this was not the case. Rather, the differences in political actors (in this case, provincial premiers), their normative understanding of the role of federal institutions, their perceptions and beliefs of the provinces' history within the context of the country's federal institutions, opportunities offered by the offshore industry, and responses to their provincial societies' and their own political ambitions, led to different degrees of conflict intractability and extent of claims and concession in each province. The Newfoundland and Nova Scotia cases were characterized by diffusion or mimicry of onshore institutional arrangements to the offshore regime as they both won concessions from the federal government over the offshore. However, institutional mimicry or diffusion was not merely an automatic exercise waiting to happen, in which the characteristics and practices of an already established institutional or organizational pattern are neatly transposed to a new one. Rather, the institutional diffusion of authority from the federal government to these provincial governments was also influenced by the agency of actors who sought the transfer of specific practices/characteristics of an institution rather than of others. The above cases illustrate the struggle between federal government and these coastal provinces to set aside the issue of ownership, which was eventually sacrificed as a condition for concessions regarding control and revenue sharing. It is also evident in the fact that the concession won by Newfoundland in the 1985 Atlantic Accord was more favourable than that won by Nova Scotia in 1982, and similar differences exist between Newfoundland's 1985 Accord and Nova Scotia's 1986 Accord. Regarding the latter, Cullen (1990, 189) noted that although the 1986 Nova Scotia Accord was modelled on the 1985 Atlantic Accord, the former is not a "carbon copy" of the latter (189). The province-specific design of joint boards reflects not only institutional impulses, but also agential effects.

Yet, though the role of actors should not be discounted, the perspective adopted in the analysis in this chapter and the thesis as a whole is situated within the understanding that human agency, or "the pursuit of institutional change by goal-oriented actors" (Grief 2006, 188) is not only constrained by the institutions within which actors operate (Thelen and Steinmo 1992) or institutional context (Immergut 2006), but also by "the shackles of history" (Greif 2006, 188). From this perspective, the constraints posed on human action by history are significant not only because historical changes force political actors to adjust their policies to these changing situations, but also because actors strategically "draw on the past" in order to "determine how to behave in new situations when intentionally pursuing institutional change, and when contemplating the development or adoption of institutional and organizational innovations" (Greif 2006, 188). At the same time, although "actors may be socialized by or consciously adapt to institutions, actors may also deviate from or reinterpret institutions in ways that change those institutions, institutions, in our particular case, federal institutional design and normative ideas over oil, help to define actors' identities and interests" (Jackson 2010, 6). As the offshore cases demonstrate, the political contentions of institutional actors over oil in turn led to changes in federal

institutions. It is in this sense that Jackson (2010, 6) argued that the relationship between institutions and actors should be seen as a "mutually constitutive" one in which "actors and institutions…change over time in a recursive or dialectical fashion."

CHAPTER 9

CONTRIBUTION, SUMMARY OF FINDINGS, AND FUTURE RESEARCH

9.1. Contribution

This study compares oil conflict dynamics (or conflict processes/mechanisms) within the context of federalism in Canada, an established federation with a consolidated democratic structure and a decentralized federal institutional design over oil, and in Nigeria, an emerging federation with a centralized federal institutional design over oil. It focuses on two key dimensions of the relationship between federalism and oil conflict: intergovernmental fiscal transfers and conflict over offshore oil. The focused comparison of these two dimensions allows a deeper understanding of the mechanisms at play in the relationships between federalism and oil conflict in Canada and Nigeria, especially the nuances of the interactions between federal institutions, social factors, and political processes.

One contribution of this dissertation to the field of comparative federalism is its focus on the distinctive or common conflict processes that emerge from differences in institutional rules—formal rules allocating power over oil, the sequencing of rule creation, and the normative ideas of federal bargaining and federal community that underpin such formal rules. Because most comparative studies of federalism have examined single country cases or comparisons between similar federations, we know relatively little about the aforementioned differences in institutional rules, beyond mere conjectures and commonsensical assumptions. For instance, though many scholars have argued that democracy matters for federalism, with some even arguing that democracy is a sine qua non for federalism (McGarry and O'Leary 2005), exactly how democracy matters is an underdeveloped question in comparative studies of federalism. At the same time, the assumption that democracy matters has led to the related assumption that federalism cannot thrive in non-consolidated democratic systems. This has led to a reluctance among scholars to compare systems that they believe are incomparable, even though some of these studies do include non-federal European countries in their studies. Yet the fact that federalism also operates in non-consolidated systems makes it imperative to study these systems as well in order to understand the salient causal mechanisms at play between federalism and the broader political and socioeconomic environment, to know whether these factors are the same with consolidated democracies, and to know whether these mechanisms operate similarly or differently in consolidated and non-consolidated systems. Comparison of 'similar' federations, or avoiding comparison of various types of federations, artificially limits the range of countries to be compared because every federation is different from every other. Selective studies are especially problematic since there are only about 24 federations in the world.

This study has responded to this challenge by comparing two diverse federations: Canada, an established federation, which is also a consolidated federal democracy, and Nigeria, an emergent federation and a federal democracy with history of authoritarian rule. It succeeds in the comparison due to its careful specification of the conflict processes related to two oil research areas: intergovernmental fiscal transfer and offshore mineral rights. The dissertation draws from the notion of varieties of federalisms to argue that although all federations have constitutionally divided powers among orders of government connected by the principles of shared rule and self-rule (Elazar 1987), they differ in the particular designs of their federal structures, the sequencing of rule creation, and the dominant ideas embedded within those structural frameworks (Benz and Broschek 2013a). Also, differences in structural factors and institutions and political practices or processes regarding intergovernmental bargain in the polities within which institutional rules are embedded combine with formal federalism institutional designs and ideational dimensions to, ultimately, yield differences in the operation of federalism (Benz and Broschek 2013a; Hueglin and Fenna 2015; Livingston 1956; Simeon and Radin 2010; Watts 1998). In turn, different varieties of federalism yield distinctive patterns and modes of adjustments (Benz and Broschek 2013a), and hence different conflict dynamics.

Second, this dissertation makes a twofold contribution to a greater understanding of conflict in multinational federations through its novel framing and definition of conflict. First, a majority of the studies on conflict in multinational federations have primarily emphasized ethnic conflict, which has resulted in a relative overlooking of what is arguably the most important or a priori dimension of federalism: intergovernmental conflict. This project endeavours to bridge this gap by primarily focusing on conflict between governments representing the two orders of constitutionally divided powers in Canada and Nigeria. In doing so, it demonstrates that the relations between governments are worthy of study in their own right, even though, as demonstrated here, such a study cannot be comprehensively done without examining the ways and mechanisms by which social pressures influence political actors. A second research gap that this project has attempted to fill is the relative lack of attention in most studies of conflicts in multinational federations, ethnofederalism, or the resource curse on the subtlety of conflict. In most of these studies, conflict is viewed or 'coded' in a limited way as either violent or nonviolent, or as high-intensity events such as civil wars, insurgencies, secessions, or separatism. This preoccupation with violence not only means that many federations have been perpetually left out of studies on ethnofederalism as violent contestations over natural resources tends to occur in some federations and not in others. Similarly, the dominant view of conflict as high-intensity conflict or dichotomy between high and low intensity conflict masks important processes that are not accounted for in such a model.

The concept of conflict dynamics, which refers to conflict processes over time, allows us to examine conflict across different federations. For the purposes of this study, I examined conflict dynamics from

three analytical dimensions: the degree of claims by the parties to the conflict and the extent of concessions granted or won, the degree of conflict intractability, and the mechanism of conflict coordination. These analytical tools allowed me to better account for subtle details of conflict and its escalation and/or de-escalation over time than a study of conflict that focuses primarily on its intensity would. My argument is not that we should abandon intensity as a means of understanding conflict, but rather that we should move away from a static understanding of conflict intensity that simplifies a complex process by dividing it into 'violent' or 'non-violent' and that is not sensitive to the influence of time and sequence on conflict. In other words, in addition to the 'what' of conflict, that is, the outcome of conflict whether violent or non-violent, we should give primary attention to the 'why,' 'how,' and 'when' of conflict mobilization and transformation. Intensity can be a useful tool in the analysis of conflict, but it must be sensitive to variations in conflict patterns over time. Similarly, violence as a measuring stick for conflict studies can become problematic because it cannot explain variations in conflict in which violence has not occurred. Other potential analytical tools for the study of conflict besides the ones discussed here include focusing on the issues of conflict scope and pace, and the degree of conflict spillover from the intergovernmental arena to the social arena.

The novel frame of conflict dynamics that I used to specify conflict processes regarding oil-related intergovernmental fiscal transfers and struggles over offshore oil rights helped me to differentiate between federal dynamics and conflict dynamics in federations. I consider conflict dynamics as an important subset of federal institutional dynamics. I argued that, aside from the inbuilt potential for conflict in federations, stemming from constitutional rules that allocate power over oil and the ideas that legitimize a particular mode of power allocation, the process of resolving conflicts may generate its own conflict patterns. With this in mind, natural resource conflict dynamics in Canada and Nigeria are, essentially, conflicts over (de)centralization or federal balance. The frame of conflict dynamics that I introduced in this study has helped to specify the conflict processes concerning (de)centralization dynamics related to oil. In turn, by further examining this conflict itself as a dynamic development that unfolds over time, this study potentially remedies the theoretical limitations inherent in most works on comparative federalism that tend to characterize the relationship between federalism and outcomes as constant over time while ignoring that these decisions and outcomes involve both continuity and change (Broschek 2012a, 2012b; Benz 2013; Benz and Broschek 2013a, 2013b).

Emphasis on the ongoing renegotiation of (de)centralization dynamics as sources of oil-related conflict invites consideration of endogenous sources of institutional change and conflict, or changes and conflicts produced by what Streeck and Thelen (2005, 19) call "the very behavior an institution itself generates." We must keep in mind that such endogenous institutional change and conflict are as much part of the reality of institutional change as exogenous change. The study's primary focus on federal dynamics and ensuing conflict aligns with the broader literature on historical institutionalism, which urges more

attention for the independent causal influence of institutions on political outcomes, particularly "their role in the processes by which they themselves change or persist" (Capoccia 2016, 1096) or the understanding of institutions as "arenas of conflict" (Capoccia 2016, 1099). As Chapters 6 and 8 of this dissertation underscore, divergent conflict processes over oil were partly but crucially generated by such endogenous institutional factors as the constitutional rules governing oil, the sequence of creation of these formal rules, power asymmetries such as centralization in Nigeria and decentralization in Canada and their renegotiation over time; the degrees of ambiguity in constitutional rules and their implications for rule reinterpretation and political contestations over offshore mineral rights; the relative rule sequencing between onshore and offshore oil policy domain; and noncompliance or imperfect compliance with intergovernmental fiscal rule in Nigeria and the implication of this for federal-state conflict.

The third contribution of this study is as a potential remedy to the relatively low interest in the systematic comparison of conflict over oil in extant scholarship on federalism and the vast literature on the resource curse. Despite the sustained interest in the resource curse and its interaction with institutional type and quality of institutions, there has been limited attempt to examine the relation between the federalism and oil, especially from a comparative perspective. This low level of attention is surprising not only because the "world's federations represent a large share of global oil and gas production," comprising about half of the world's total oil production and 55 percent of total natural gas production as Anderson (2012a, 1) noted, but also because federations face distinct challenges from those of unitary nations with regard to the management of oil and gas, which arise from the territorial division of powers and constitutional allocation of competency (Anderson 2012a).

9.2. Summary of Findings

Federal institutions, particularly their designs allocating power over oil, are central to this study. To reiterate, in an important sense, a study of conflict over oil in federations is also one about the development of federal institutional rules—their origins, continuity and change—over oil. While "conflict over 'who gets what and why?' and 'who pays?" how and when? "have been at the heart of political development for centuries and the trigger for fundamental institutional change" (Lindner 2006, 1), institutional rule itself can also serve as a catalyst for conflict generation and resolution. This points to the mutually constitutive nature of conflict and federal institutional design. On the one hand, while federal institutions set the rules for orderly or stable bargaining contests over natural resources, these rules themselves serves as bases for conflict. As Cromellin (2001, 139) noted, "disputes are inherent in the federal system of government. The distribution of power between and within levels of government provides a catalyst for conflict, as much a distinguishing feature of federalism as the existence of distinct polities." Yet, as this study has found, conflict between orders of government was generated not merely by the formal constitutional provision allocating power over oil, or the conflicting idea of federalism

and federal community that underpin formal institutional arrangements, even though these were the primary entry point of this study. In both Canada and Nigeria, constitutional allocation of power over oil, including the sequencing of this formal rule creation, and federal ideas or principles concerning shared rule and self-rule, or sovereignty and autonomy that underpin the formal rule, are the endogenous sources of institutional change and conflict, and hence the primary points of entry for this study. However, overall, the general conclusion from this study is that federal institutional rule—formal design and ideas—though a fundamental factor, is insufficient on its own for a comprehensive understanding of the dynamics and outcomes of political conflict. The interaction of this distinctively federal institution with other institutions, particularly the socioeconomic structure and and political processes or practices is another important factor to which we should pay attention in explaining conflict over oil.

Taken together, these three configurations of institutions salient to the operation of federalism allow us to observe federalism as a multidimensional phenomenon (Benz and Broschek 2013; Burgess 2006). Such a conception, as Benz and Broschek (2013a, 3) argue, is "well suited for overcoming the highly fragmented research agenda in the field" that has been a hindrance to the systematic comparative study of federalism and its varieties of dynamics. Viewing conflict processes as configurations of these three categories of institutions also align with the theoretical framework of historical institutionalism. This model is based on the understanding of institutions as both formal and informal rules and on the influence of interests, ideas, and institutional contexts in shaping institutional development, continuity, changes, and outcomes. Through the lens of historical institutionalism, an explanatory framework that accounts for the multidimensionality of federalism, this study takes as its key premise that federal institutions, especially the constitutional allocation of powers over oil as well as normative ideas about federalism, structure the incentives of the representatives of various constitutionally-powered interests. These endogenous incentives to action that the federal rules provide are in turn influenced, but not determined, by the broader political practices or process of intergovernmental bargain provided through these federations dominant representative institutions (executive federalism in Canada and executive-legislature interactions in Nigeria), and macro-structural factors, particularly the configuration of social diversity around oil, the degree of dependence on natural resources, the geographical location of resources. Arguing from an historical institutionalist perspective, the dissertation demonstrated that the variety of oil conflict dynamics in Canada and Nigeria are ultimately produced by the different institutional configurations of these federations. Institutions not only endowed the actors representing the two orders of government with different power and ideational resources, and, in so doing, shape their interests and strategies, they also crucially mediate the struggles between these actors to shape institutional outcome in their favour. These struggles, as historical institutionalists note, are at once the "legacy of concrete historical processes and…the object of ongoing contestations" (Conran and Thelen 2016, 60-61). As demonstrated in earlier chapters and summarized below, this dissertation gives

significant attention to the varying impacts of temporal historical processes on institutional development and ensuing conflict over oil in Canada and Nigeria. It highlights the role of critical junctures (and their antecedent conditions) and path dependence trajectories shape actors' behaviour and interests regarding oil and the way the rule tension generated or amplified by these exogenous shocks – themselves crucially mediated by the federal institutional arena of formal designs and ideational norms of federalism – shape not just authority relationships over oil but overall federal balance. Below, I summarize the effects of these institutions and their interaction mechanisms regarding oil conflict, paying attention to the temporal processes that interact with these institutions in structuring actors' preferences, and in turn, conflict processes over oil.

9.2.1. Federal Institutions

Earlier definitions of federalism emphasized the constitutional architecture of federations, especially the structural division of powers and authority between orders of government. One of the foremost proponents of this view was Kenneth C. Wheare (1963, 10), who defined federalism as "the method of dividing powers so that the general and regional governments are each, within a sphere, co-ordinate (that is, equally important) and independent" Although Wheare's definition has been criticized as too legalistic, narrow, and inattentive to the fact that federalism consists of both interdependence and autonomy instead of merely the latter, it nevertheless still remains relevant for the understanding of federalism. This is because as Watts and Blindenbacher (2003, 28) point out, the fact that the orders of government derive their powers and authority from the constitution rather than from another order of government is the distinctive feature of federations that distinguishes them from decentralized unitary states and from confederations, which also have multi-tier governments, some of which are even more decentralized than federal systems.

This project focused on the constitutional allocation of both fiscal and policy powers over oil, and how this has shaped conflict over time. Constitutional arrangements around oil allocate power and authority between territorially empowered units, with various distributional consequences: "federal constitution sets the basic rules of the political game, including their allocations of management and fiscal responsibilities in relation to the sector" (Anderson 2012b, 372). Constitutional divisions of powers, therefore, are important in understanding how conflict over oil is generated and regulated.

Federations vary greatly in the divisions of power between the central government and constituent units. Broadly speaking, "some federations are highly centralized, concentrating power in the central government, while other are decentralized, with extensive autonomy and discretion allocated to constituent units" (Anderson 2007, 3). The allocation of jurisdictional competence over oil generally follows this broad pattern. This study demonstrates that the degree of centralization and

decentralization is a critical predictor of the nature of conflict that may emerge over oil as it generates different incentives for intergovernmental competition and bargaining over these resources.

Generally, Canada and Nigeria represent opposite ends of the centralization-decentralization continuum with regard to allocation of power over the oil sector, with Canada largely favouring decentralization and Nigeria favouring centralization. Canada's constitution stipulates that oil and all other natural resources are under the control and ownership of the provinces, while in Nigeria, these resources belong to the federal government. The constitutional bases for these are, for Canada, Section 92 (5) of the British North America (BNA) Act, 1867 which empowered provincial legislators to legislate on "management and sale of the public lands belonging to the province" and Section 109 which vested natural resource ownership and control in the provinces (Thring 1979, 71); and for Nigeria, section 44 (3) of the 1999 Constitution, which provides that "Notwithstanding the foregoing provisions of this section, the entire property in and control of all minerals, mineral oils and natural gas in, under or upon any land in Nigeria or in, under or upon the territorial waters and the Exclusive Economic Zone of Nigeria shall vest in the Government of the Federation and shall be managed in such manner as may be prescribed by the National Assembly."

Thus, in Canada, all provinces own their natural resources and benefit from natural resource development, and thus are jointly motivated to prevent incursion of the federal government into this important constitutional area. In Nigeria, some states, but not all, would benefit from a decentralized system of oil (the only developed mineral) and hence are unwilling to support many proposals to shift ownership/control to the states or reconfigure the sharing of oil revenues in such a way that resource-rich states will benefit substantially. Before the end of the First Republic through the military coup of 1966, derivation to states stood at 50 percent of mining rents and royalties for both onshore and offshore minerals, as compared to the present 13-percent weight given to derivation. Instead of general cooperation to rebuff the federal government's intrusion into provincial competence over natural resources as in Canada, Nigeria exhibits a 'silo mentality' due to the realization that decentralizing oil ownership, control, or revenues, means a gain in revenues for the oil-producing states and a loss of revenues for non-oil-producing states.

The above comparison should, however, be qualified because of the unique challenge that oil poses in Canada, as compared to other natural resources. This is not only due to the economic gains that oil provides, but also because in the case of increases in oil prices, Canada's peculiar dual market of producers and consumers turns what would have been a win-win scenario into a zero-sum game in favour of the oil-producing provinces. This was the case during the oil crises of the 1970s. As Tuohy (1992) noted, the regional concentration of energy resources and consumption in Canada made concerted adjustment/response to the oil shock and price escalation difficult. While the oil price increase presented domestic oil producers in the western provinces, such as Alberta, with the opportunity to

reap massive windfalls from export of their products, it also threatened to increase fuel import costs for consuming provinces such as Canada's industrial bastions in Ontario and Quebec. Balancing these producer-consumer interests has been difficult.

However, as I noted in Chapter 6, the fact that the different resources and economic bases which in turn have spurred different occupational patterns in which "all provincial governments act to promote the economic opportunities of their" provinces (McCormick 1989, 10-11) serves a positive role in the reproduction of provincial authority over natural resources. Examples of resources built around specific provinces in Canada include oil and gas in Alberta, Saskatchewan, Newfoundland, Nova Scotia, and British Columbia; hydroelectricity in Quebec; fisheries in Newfoundland and British Columbia; forestry in New Brunswick; and coal in Nova Scotia. Such diversity of resources can be attributed to favourable geography. However, it is fundamentally ensured by the constitutional allocation over natural resources in the provinces and the fact that provincial premiers have made efforts to exploit these resources to further their province-building endeavours (McCormick 1989; Stevenson 2009). While many of these economic resources and the occupational groups and the political-economic interests they generate are distinct from province to province (McCormick 1989), the fact that provinces, no matter where they are, depend on one resource or the other for their economic growth and in meeting government functions provides incentives for a sort of common ground for the protection and defense of provincial primary legislative and jurisdictional rights over natural resources.

In Nigeria, the centralized federal institutional arrangement undermines any convergence of states' self-interests over oil, because all mineral resources belong to the federal government, but oil is the only one of these minerals that has been significantly developed. Although each of Nigeria's states has several solid minerals, ranging from gold to gypsum, the lack of development of these resources deprives most states of the 13 percent derivation that should have come to them. The opposition by most of the states to the producing states' demands for 'resource control' can partly be explained by what these states perceived as a zero-sum outcome inherent in such a decentralist institutional framework.

Scholars such as Bolleyer and Thorlakson (2012) and Cameron (2001) have enjoined us to give attention to interdependencies, or areas of shared jurisdiction between orders of government, as much as we give to the issue of the relative autonomy between them. Such shared areas are also found in the oil policy or fiscal domains in Canada and Nigeria, and the nature of this interdependence has influenced oil conflict in both cases. In Canada, Thring (1979) describes the relationship between provincial and federal powers as constitutional uncertainty, as it is not clear which order of government has ultimate powers over the oil field between a federal government conferred with commerce and trade powers on the one side and the provincial government's proprietary rights over the sector on the other. He notes that this uncertainty has propelled the provinces to cover the ground or carry out expansive legislation, intruding into what otherwise seems to be federal jurisdictional competence. He argues that this

uncertainty is further exacerbated by the unwillingness of the courts to adjudicate on the broad powers of the order of government, opting instead to make decisions on a case-by-case basis. The conflict over offshore oil demonstrated how this constitutional uncertainty influenced conflict dynamics in Canada by encouraging the provinces to make expansive claims over offshore oil. Such expansive claims, in the face of the federal government's assertion of its own power over the offshore domain, contributed to the higher degree of conflict intractability.

In the onshore oil field in Canada, the federal government's attempt to use its powers over commerce and trade, as well as indirect and direct taxes during the oil price crises of the 1970s and 1980s, elicited serious backlash from the oil-producing provinces. While the federal government's exclusive policy and regulatory/control authority over oil are clearer in Nigeria and not counterbalanced by other powers of the states over these issues, the constitution nevertheless forces some kind of interdependence by the requirement for sharing of the federations' revenue collected by the federal government—mostly oil rents—between the federal and other government tiers. Section 162 (1 & 2) of the 1999 Constitution states that all such revenues should be kept in a common pool known as the Federation Account, from where they are shared, based on a formula approved by the National Assembly, between all tiers of government. The federal government's use of its veto power over control of oil revenues to keep some of these revenues to itself rather than deposit them in the Federation Account to be shared by all the orders of government has been a sour point in the relationship between the states and federal government. Besides the incentives that centralized institutional design provides for the federal government to withhold revenues meant for the whole federation, the Nigerian intergovernmental fiscal system faces the challenges of a revenue formula that favours the federal government, as well as clamours from oil-producing states for an increase in their share of oil revenues beyond the current constitutionally specified 13-percent derivation rate.

The Canadian and Nigerian cases align with historical institutionalists' arguments about the structuring role of institutions on politics, particularly how institutions constrain or enhance governmental actor's preferences and shape the strategies these actors adopt in achieving a political goal (Thelen and Steinmo 1992; Thelen 2010). The struggle for the reproduction of or change to existing authority relations over oil in both federations reflect mechanisms of entitlements which speaks to the ways institutions sustain a coalition in support of a particular institutional arrangements which they have come to view as their entitlement (Hall 2016, 42). Seen from this perspective, the divergent degrees of assertiveness and concession won by provincial and state governments in Canada and Nigeria during the offshore mineral conflict as discussed in Chapter 8 were structured by the way the constitution divided power over these resources generally (and for Canada, over onshore mineral resources) and the entitlements generated by these divergent constitutional rules. The mechanism of entitlement also implies that actors may not to want to switch to an alternative institutional arrangement for fear of losing what they have, even if

the proposed alternative may be of greater value (Hall 2016, 42). An example from the cases studied here include the entrenchment and reproduction of centralized institutional arrangements concerning oil in Nigeria, even though such a centralized arrangement, which has served the goal of territorial economic redistribution to non-oil producing states and helped to forge a sense of national unity in Nigeria's deeply divided federation as well as prevent large scale internal disorder and state failure, has been maintained with serious negative consequences for accountability, democratic representation, socioeconomic development, and overall political stability (Okpanachi 2010; Suberu 2009). Another example is the opposition or disinclination of provincial and federal governments in Canada to the reform of the equalization governance structure to make it less politically contentious and politicized through the establishment of an arm's length commission, because of the political benefits these governments derive from the current arrangement (Lecours and Béland 2013). The maintenance of these (seemingly) inefficient institutional arrangements demonstrates the point made by Douglas North, who urged us to be attentive to institutions' suboptimal performance and to reject assumptions dominant in rational choice theory about efficiency outcomes of strategic actions (North 1990).

The mechanism of entitlement invites consideration of another mechanism: "how institutions distribute power" (Hall 2016, 43) or what Mahoney (2000) calls the power-based mechanism of institutional reproduction. According to historical institutionalists, the ability to defend the entitlement that actors perceive is granted to them by institutions is partly shaped by the resources provided to these actors by the constitutional allocation of power over oil. With this in mind, the different constitutional rules allocating power over oil not just created different sets of entitlements for the different governments, but also offered these governments the resources to use in staking their claims over oil. However, the staking of claims is not a fait accompli in which the actors or coalitions favoured by the allocation of power simply impose their preferences on the other actors who willingly accept such imposition. In other words, formalized institutional arrangements "are not automatically self-reproducing" but are rather "politically contested not just occasionally but on an ongoing basis," particularly because they are "underpinned by power relations and fraught with distributional implications" (Thelen 2010, 54). Mahoney (2000, 521) argues that institutional persistence takes place in spite of pressures for change "provided that an elite that benefits from existing arrangement has sufficient strength to promote its reproduction." It is in this light that Knight describes institutional dynamics, the process of institutional change and continuity, as "a contest among actors to establish rules which structure outcomes to those equilibria most favourable for them" (Knight 1992, 126). This dissertation demonstrated in Chapters 6 and 8 how the different federal constitutional rules allocating power over oil created a coalition of actors—all provinces in canada and non-oil producing states and the federal government in Nigeria that have a strong vested interest in protecting existing institutional arrangement over oil from change, with this institutional dynamics [or its renegotiation] generating different conflict dynamics in the two federations.

The accent on power asymmetries does not preclude the roles played by ideas and shared norms, which draws attention to the point about actors' perception or belief regarding what is 'appropriate' that drives institutional, and, in turn, conflict dynamics. I argue that a focus on the constitutional division of power is the basic entry point to understanding the conditions under which federalism is likely to generate conflict over oil. Federal constitutions "set the basic rules of the game, including the allocation of management and fiscal responsibilities in relation to the petroleum sector," even though the constitutional allocation of powers is also shaped by broader political, economic, and social contexts (Anderson 2012b, 372). However, alongside constitutional rules allocating policy and fiscal power over oil, federal norms or normative ideas of federalism also influence conflict dynamics. As historical institutionalists note, the formal structures, rules, and norms of institutions shape, and are in turn shaped by, the choices and preferences of decision makers or politicians, placing specific emphasis on the role of long-term historical processes and context in influencing the interaction between actors and the normative order (Morgan et al. 2010). By providing the "moral or cognitive templates for interpretation" as framed by the worldview of the individual, norms exert influence on "the identities, self-images, and preferences of individuals" (Hall and Taylor 1996, 939). Consequently, within a particular federation, norms may determine the type of political behaviors or political practices that are considered "legitimate" or "socially acceptable," and as such may be as influential as formal rules and structures in shaping politics (Kelemen 2004). Depending on the context and issue, however, such informal rules can alternatively fill the gap left by the absence of formal rules, can exist in parallel with or complement these codified rules, or deviate from formal rules in ways that "alter the effects of these rules and actors' behaviors" (Kleine 2013, 304). With regard to the generation and management of conflict over oil, this study showed that, although federalism can help to manage conflict through formal institutional design such as territorial distribution of power over oil, it can also do so through informal rules or behavioral practices of institutions, such as practices that embody normative ideas about federalisms' shared rule and self-rule.

Besides the values of shared sovereignty and contractual autonomy as mentioned above, other important norms in a federation include mutual trust and respect among the federating entities, the spirit of compromise and tolerance between political elites, and the existence of a civil society that supports these values (Watts 2010). Others include norms of cooperation and "continual inter-governmental consultation and negotiation within and outside of the formal institutions of government, including diverse mechanisms for citizen participation and rules of public transparency" (Kincaid 2005, 10).

The influence of norms may not be easily recognized. However, as Watts (2010, 339) forcefully argued they are "the necessary conditions for a federal solution" and that in their absence, it becomes difficult for a federal solution to facilitate effective governance or mitigate conflicts through democratic means. For instance, though executive federalism is a central institutional arrangement for intergovernmental

bargaining and negotiation in Canada, this mechanism may exacerbate rather than mitigate conflict when the norm of elite cooperation that conditions its working is lacking or in short supply. This study demonstrated not only how constitutional distribution of power contributed to the management of conflict, but also how normative ideas of federalism and intergovernmental cooperation create such shared 'rules of the game' that shape and were in turn shaped by formal institutional rules.

For instance, as English (2009) pointed out and as is discussed in this study, the conflict during the oil crises of the 1970s and 1980s was underlaid by different visions of federalism. Prior to the 1970s crises, the balance of power in Canada had tilted more towards the decentralist spectrum. Trudeau had reasoned that the enormous wealth that would accrue to producing governments would have exacerbated the move towards decentralization and was determined to halt this development. Such critical antecedents include the Quebec nationalist movement and the growing economic powers of the western provinces, especially Alberta. Perhaps no other province demonstrated this centrifugal impulse as dramatically as Quebec, whose 'Quiet Revolution' beginning in the 1960s was increasing in determination and audacity, with separation as a core component (Béland and Lecours 2006; Trudeau 1993; 1999). These centrifugal forces were seen as capable of undermining the delicate balance of Canadian federalism. They also made the Trudeau government apprehensive over the extent and pace of decentralization, which the oil price boom promised to even make worse if efforts were not made to prevent the producing provinces from reaping all the windfall. Blake (2015) noted the frustration felt by Trudeau and his advisors about the persistent provincial challenges to the federal government's capacity to govern on behalf of the country as a whole. Trudeau regarded his predecessor Pearson as having practiced a form of federalism that gave too much power to the provinces and which was capable, if not halted, to hasten the descent of the federation towards a fervent decentralization that threatened to weaken and even overwhelm the federation. Trudeau's commitment to reversing the centrifugal tendencies which he saw as deleterious to federal stability clashed with provincial premiers' heightened activism in claiming greater provincial control of and benefits from natural resources. This conflict was as much about interest as about competing visions of federalism, a conflict between nation-building and province-building. The high-intensity conflict during the crisis should therefore be seen as the natural outcome of this rebalancing act.

According to Trudeau, the Quiet Revolution created incentives for Quebec political elites to clamour for a "loosening of federal ties" through the use of such phrases as "special status, distinct society, equality or independence, sovereignty-association" (Trudeau 1999, 361). According to Trudeau, the strength of the Canadian constituent units can be measured by their expenditures. He argued that provincial and municipal expenditures rose by 211 percent, as compared to the federal government's expenditure, which increased by 57 percent between 1954 and 1964 (Trudeau 1999). Accordingly, the impetus towards greater decentralization in a country that was already considered as one of the most decentralized

countries in the world, but which had a weak national identity, was capable of endangering "Canada's survival as a country" (Trudeau 1999, 375), and he vowed to resist it. Thus, the NEP provided an opportunity for Trudeau to implement his own vision of federalism, which was to "create counterweight" against "dangerous imbalances" by siding with the order of government against which "or the opposite of the way the political scales were tipping" (Trudeau 1999, 361). The critical antecedents to the energy crises and the pendulum of federal balance were what Trudeau called "the centrifugal forces that were threatening to break the federation apart to which the Canadian government tried to counterbalance…between 1968 and 1984 by implementing policies whose policy goal was to create a Just Society" (1999, 361).

The accent on the 'Just Society' is an indication that the conflict over the NEP was not just about whether the NEP encroached on the constitutional competence of the oil-producing states, but that the constitutional dispute was overlaid with an ideational one, embodied in the justification of the NEP as a means to achieve "a strong federal government" (Axworthy and Trudeau 1999, 4). A strong federal government was not only imperative to halt the centrifugal trends which Trudeau believed were weakening the federation, but was also indispensable for "initiating programs that would equalize opportunities for Canadians wherever they happened to live" (Axworthy and Trudeau 1999, 4-5). Central to the realization of Trudeau's 'just society' were the ideas of risk sharing and benefit sharing by members of the federal community. Together, these ideas provide a legitimating framework for a centralized federation, which Trudeau regarded as the only facilitator or guarantor of the value of a just society, which he also wanted to achieve with the NEP. However, the ideational frame of shared rule that Trudeau forcefully introduced could not withstand the historically dominant idea of provincial resource autonomy established at least two decades before Confederation, and reinforced at Confederation in 1867 and during the transfer of resources to the Prairie provinces in 1930. To be sure, the idea of shared rule gained significant support from the consuming provinces that benefited from redistribution of oil windfalls from the producing provinces during the oil price increase. For instance, other provinced opposed Alberta's creation of the Alberta Heritage Savings Trust Fund (AHSTF) in 1976 and efforts to save oil windfalls in it, with the Ontario government calling on the producing provinces to pluck back the oil windfalls "into the economy, to cushion consumers from the effect of price increases, to make investments in the improvement of energy conservation and efficiency, to develop alternative energy sources and to promote further exploitation and development activities" (Simeon 1980, 2). The justification for this opposition was not any constitutional provision mandating sharing by oil-producing provinces, but the idea that such sharing conforms to the "historic obligation of all members of Confederation to aid the country in a potential national crisis" (Simeon 1980, 2). However, persistent resistance by the producing provinces and historical contingencies in forms of oil price crashes and the election of Mulroney combined to reverse the centralizing impetus. With the short-term threat of oil price escalation over, the support of the producing provinces for shared rule was replaced with

the historical self-rule ideational and autonomist institutional arrangement over oil. To avoid the bitter challenges of the 1970s and 1980s, the provinces, led by Alberta, realigned their interests for the entrenchment of a new section in the 1982 Constitution that further strengthened provincial control over natural resources.

By comparison, Nigeria had become centralized as a result of the convergence of military rule and civil war. With military rule, the country's federal institution of government was replaced with a unitary one, but the powerful regions of the time were abolished in order to weaken the powers of the constituent units. In abolishing the federal institutional framework, Aguyi Ironsi framed the problem around ethnicity and regionalism. The counter military coup that installed Gowon as Head of State was partially carried out to reverse unitarism. Gowon had reversed Ironsi's unification decree out of sensitivity to the dominant Hausa's interest in federalism, but the civil war again pushed Nigeria toward unitarism. The military government carried out several reforms that were justified by the exigency of the war, which further entrenched the federal government as the dominant power in the federation. For instance, the Dina Revenue Committee Report of 1969 framed centralization around the need to foster national unity as bulwark to centrifugal forces represented by the secessionist war waged by the eastern region. The Committee argued that "we believe that the fiscal arrangements in this country should reflect the new spirit of unity to which the nation is dedicated. No more evidence of this is necessary than the present war to preserve this unity at the cost of human lives, material resources and the radical change in this country's structure. It is in the spirit of this new-found unity that we have viewed all the sources of revenue of this country as the common funds of the country to be used for executing the kind of programmes which can maintain this unity" (Dina Revenue Committee Report of 1969, 27). Following this ideational frame, centralization of the fiscal system has since then been justified using the discourse of national unity and solidarity as Obasanjo did in justifying his decision not to assent to the bill by the National Assembly (NASS) which would have seen the littoral states benefiting from offshore oil produced in the continental shelf. The existence of states that largely depend on the redistribution of federally collected oil revenues has in turn served to reproduce and entrench this centralization ideational and material dimensions of federalism.

The Canadian and Nigerian cases underscore ideational influences in conflict over material interests such as oil. Ideas not only "shape how we understand political problems," they also give definition to our values and preferences, providing us in the process "with [the] interpretive frameworks that make us see some facts as important and others as less so" (Béland and Cox 2011, 3). Ideas are not stagnant, and are subject to refinement, reframing, and reinterpretation as actors debate or engage in the discursive framings of these ideas with others who challenge these ideas and offer alternative ones (Béland and Cox 2011, 10). The processes of institutional development—evolution, continuity and change—are fraught with this iterative discursive process, with the implication that "the ideas that

define institutions, as well as the ideas shared by political actors, are in flux, often at odds, and malleable" (Béland and Cox 2011, 10).

The relationship between ideas and institutions can be mutually constitutive or conflicting: on the one hand, ideas are "embedded in the design of institutions," while on the other, institutions are formed when "shared ideas lend themselves to routine practices" (Béland and Cox 2011, 8). Accordingly, institutionally embedded ideas empower some actors over others as ideas are used to "institutionalize, even legitimize, power differentials" and struggles over ideas and the power asymmetries they legitimize in turn "intersect with institutional struggles" (Béland and Cox 2011, 9-10). Another reason ideas lead to change is that most often, more than one idea is embedded in institutional policy, and these various ideas lend themselves to conflicting interpretations (Beland and Cox 2011, 10). Therefore, like constitutional rule or ambiguity over which oil conflict took place in Canada and Nigeria, ideational ambiguity also served as a source of change as actors struggle to "make policy decisions reflect their preferred interpretation" (Béland and Cox 2011, 10). Drawing from Lieberman (2002), conflict can also arise over ideas due to the friction between the ideational and formal institutional aspects of a polity. For instance, the idea of sharing, which Trudeau championed and introduced through NEP clashed with the primarily decentralist structural design of federalism over oil and its underlying idea of self-rule. The decentralist design would have seen the oil-producing provinces recouping most of the oil windfall during the period of increasing international oil prices.

This study demonstrates that not only ideas, but the interplay between ideational logics, political actors' interests and strategic manoeuvrings, institutional landscapes, and historical contexts can comprehensively explain why certain ideas and the policies they inform are accepted and entrenched instead of others, why some ideas take root and others fail, and why some ideas are difficult to displace or replace with new ones. The approach to ideas that I have used here does not regard ideas as independent forces that determine action on their own; though this may be possible in other policy fields, the research for this project did not support such a claim with regard to oil policy. Rather, ideas were used as legitimating tools for institutional arrangements and interests. Indeed, as Guy Peters (2012, 125) cautions us, attention to ideas should not make us emphasize ideas to the exclusion of other explanatory variables, for while "ideas are important in political life, and…many policies are shaped by ideas," in short, although ideas "can be extremely important and indeed almost determinate" in some of these policy fields, "many policy areas may not have as clear dominance by ideas, or have as clear sets of ideas that can shape a policy" (Peters 2012, 125). Federalism is a policy issue in which ideas do play important roles, as this study vividly demonstrates, especially regarding political compromises concerning equalization and offshore oil in Canada and Nigeria and in the reproduction of the decentralist and centralist institutional arrangements over oin in these countries. However, the

ideational dimension of federalism is sometimes trumped by the material dimension that oil represents as a political and economic issue that confers political power and revenue.

This study showed that under certain conditions, the dominant normative thinking over the constitutional allocation of authority over oil may matter more than the allocation of authority. This was the case with offshore oil in Canada where given the absence of explicit rule allocating power over offshore minerals, which, unlike onshore resources where vested in the provinces, the provinces appealed to the idea of provincial autonomy in the onshore subfield to justify their claim over mineral rights. However, it can be argued that such framing using ideas of self-rule would not have been convincing without the prior constitutional allocation of power to the provinces over onshore natural resources. Thus, even here ideas about provincial rights over natural resources generally was mobilized to fill in the gap presented by formal design ambiguity over offshore oil, the mechanism is not idea working by itself to generate change but in conjunction with material dimension of institution or institution design. As owners of onshore oil, provinces have been able to reproduce this pattern in the offshore policy field.

9.2.2. Macro-structural Factors or Institutions

The historical institutionalist framework cautions us, as several studies of federalism have done (Skogstad, Cameron, Papillon, and Banting 2013; Erk 2012), to not attribute sole explanatory powers to formal rules such as formal institutional design or constitutional division of powers over oil in shaping political outcome. Conrad and Thelen (2016, 52) refer to these as "macro-structural forces." I view the operation of federalism as involving, as historical institutionalists do, a "complex configurations of [these] factors" (Immergut 1998, 19) rather than federal institution acting alone. However, I conceive of federal institutional arrangements as embedded in this broader structural context but argue as historical institutionalists do that federal institutions "stand between [these] macro-structural forces…and the relevant outcomes of interests" (Conrad and Thelen (2016, 52), in this case conflict over oil. In other words, the effects of these structural factors on oil conflict are mediated through federal institutions.

Structural conditions or forces that affect the formation and processes of federalism include sociological, economic, international, and historical factors (Cameron 2001; Livingston 1952; Simon 2011). This study focuses on three particular structural conditions that are salient for this study: the configuration of social cleavage around oil, the degree of reliance on oil, and the geographical distribution of natural resources in each of the federations. Historical and international factors in general, meanwhile, are discussed as part of the theoretical framework of historical institutionalism.

The first factor to be considered here is the nature and extent of territorially defined social cleavage around oil. As scholars, politicians, and policy-makers have noted, a crucial variable affecting the generation of conflict and its regulation, especially in multinational societies, is the nature of social cleavage that federalism was intended to manage in the first place (Bermeo 2002; Watts 2013). The term social cleavage has been used in this study to indicate territorially structured ethnic, linguistic, and religious diversity. Cameron (1999, 2) argues that "the racial, religious, linguistic and cultural composition of a given country often sets the terms of the federal bargain, ruling in or out certain institutional forms and practices."

Even though it was not the primary focus of this study, this dissertation demonstrates that social cleavages are important focal points of contention in political systems: they "structure civil society and create collective action opportunities" (Lane and Ersson 1998, 37) for political mobilization, generating conflicting demands and claims on political institutions and political processes. These cleavages, therefore, have a profound effect on conflict and competition, especially in multinational societies. Thus, the degree of cleavages or diversity that federalism reconciles can shed light on oil-related conflicts in Canada and Nigeria.

Federations are characterized by different degrees, nature, and management of territorial cleavages or diversities (Moreno and Colino 2010). They vary in the extent to which the 'federal society' is "integrated" or "diversified" (Livingston 1952, 88). For instance, the nature of political competition is expected to be different in multinational federations, such as Canada and Nigeria, than in national federations, such as Germany and Australia, given the different types of pressures that emerge from the different types of territorially concentrated ethnic makeup in these societies. Indeed, as Horowitz (1985) noted, the incentives for conflict differ in homogeneous and heterogeneous societies. But even in multinational federations, there are variations in the degree of heterogeneity of each country, and these variations can exert different pressures on the institutional forms and practices of federalism.

A major route through which ethnicity was directly implicated in oil conflict was the confluence between the geographical location of oil and the country's majority-minority ethnic faultline. Although both Nigeria and Canada have minority ethnic nationalities, the locations of these minority groups in relation to oil differ in each country. Quebec, the provincial territory of Canada's majority French-speaking group, but which is a minority group in the national context, is not an oil-producing state, while the Niger Delta, Nigeria's main oil-producing region, is composed of states whose populations include minority ethnic groups. The study demonstrates that the influence of the ethnic-linguistic character of the federal society was greater in Nigeria than in Canada, most significantly because the ethnic division in Nigeria coincides with the division between oil-producing and non-oil-producing states. The configuration of ethnic diversity around oil means that perceptions over unfavourable outcomes over

oil, such as the oil-producing states' inability to increase the share of funds that are returned to them based on the derivation rule, are framed around their weak political power.

Against this background, the salient role of mobilizations by ethnic groups in oil conflict in Nigeria was not surprising. For instance, claims to and mobilizations concerning offshore oil in Nigeria were led by ethno-regional groups, and in some instances, these claims coincided with those of state actors. Following the National Assembly's passage of the bill that would eliminate the onshore-offshore dichotomy, the governors of the northern states were still figuring out how to respond, and it was the Kano Elders Forum's opposition to the bill that prompted action on their part. The bill would have allowed revenues from offshore petroleum production in the continental shelf to count toward the derivation fund. It is interesting to note that the president vetoed the bill one day after the Kano Elders Forum made known its opposition to the NASS's political solution that used the continental shelf as a basis for the application of derivation revenues from offshore oil production (Ajayi, Amaize, and Aziken 2002; Nnana 2002). In Canada, provincial actors were relatively free from direct encumbrances or pressures of ethnicity, in their clamours for better deals regarding offshore oil. And this also applies to onshore oil conflict and mobilization in Alberta, the country's main oil producing province, and the other producing provinces. For instance, as Loleen Berdahl and Roger Gibbins (2014, xvii) noted, unlike Quebec's nationalist movement, Western Canadian discontent is not "driven by a distinctive regional language, religion, or culture." They contend aptly that although the cultural differences between Quebec and the West should not be glossed over, "these have not been significant drivers of regional discontent" and that rather, "they add colour and spice to a much larger stew" (Berdahl and Gibbins 2014, xvii).

The Canadian and Nigerian cases show clearly the salience of institutions in structuring the construction of actors' interests as shaped by the structural environment. In Canada, such interest construction takes largely place through the framework of state boundaries while in Nigeria, additional layer is added to this interest contruction not just by the federation's ethnofederal character and hence the configuration of ethnic identities around the geography of oil, but also by the constitutional recognition of ethnicity (Osaghae 2005).

The above is not to underestimate the indirect influence of Quebec, Canada's ethnofederal arrangement which is where the country's ethnic-linguistic mobilization is mainly concentrated, on oil conflict and dynamics. This dissertation has pointed in consonance with the contributions of scholars such as Lecours and Béland (2010), Béland and Lecours (2014, 2016), and Béland et al. (2017), concerning how Quebec nationalism or Quebec identity assertion has significantly affected political manoeuvrings over oil and fiscal relations in general through the equalization program, and the strengthening of decentralist structure over natural resources in the 1982 Constitution (Gibbins 1992). In addition, Quebec had also joined Ontario in waging political and legal battles against the federal government but have also built a

collaborative political relationship and alliances in these struggles to stave off the federal government's interest and influence in the resources of the Laurentian shield (Armstrong 1981; Stevenson 1981, 2009). This historical legacy that not only helped protect decentralization of natural resources early on in the federation's history but also provided important antecedents that Canada's Prairie provinces such as Alberta must have used in their battle for resource control with the federal government. However, the fact that Alberta, and not Quebec, is Canada's main oil-producing region has attenuated a direct link between social cleavage and oil conflict, and hence shielded oil conflict from assuming violent dimensions in Canada.

A major feature of intergovernmental contests over oil in Nigeria that is not present in Canada is the negative spillover of conflict from the intergovernmental arena to the social arena, which has led to the presence of violence in oil-related conflicts in Nigeria. Yet, violence did not initially attend the struggles of the producing states over oil. The transformation of discontentment in the oil producing states from that of peaceful agitations to that which has also featured violent strategies are sustained at the social level in part because incompletely resolved political questions are pushed out of the formal federal arena, where they could be easily tracked and managed, into the level of society as a whole, where conflict can spiral out of control. Non-state actors resorting to violence have also seemingly gained legitimacy in the Delta communities due to the roles they have played as alternative platforms for interest aggregation. This is partially due to the long absence of robust state governments as representatives of people's interests during military rule, as well as to the weak linkage between the governments of oil-producing states, the federal government, and the people since the return to democratic rule, resulting from the state governors' diversion of funds meant for their states. The recourse to and sustenance of violent behaviour could also be explained by the government's suppression of legitimate agitations by the Niger Delta groups, leading to the escalation of what originally had been non-violent protests (Oriola 2013; Osaghae 1995).

Interestingly, although non-state elites from minority (oil-producing) states have openly called for resource control in the strictest sense, state elites have preferred instead to adopt a minimalist understanding of resource control restricted to increase in derivative oil revenues and oil-producing states' participation in oil activities. The only time these state elites called for total resource control was in 2000, following the conflict with the federal government over the latter's refusal to pay derivation funds from offshore oil production. However, this clamour quickly died down when the federal government offered these states oil exploration licenses. Besides this federal government's use of patronage power, what actually killed the agitation was the realization that resource control was not practical, since the institutional processes for the transfer of ownership and control of oil from the federal government to the states were too lengthy and complex.

Thus, demands by social groups in the Niger Delta have not been replicated openly by the region's elected political elite. As a result, social and political elites in this region demonstrate dissonance over resource control, at least openly. The very fact that the issue of resource control is foreclosed by political elites at the formal institutional level has helped to prevent this issue from dominating political discourse at that level and has also kept disruptive political conflict from seeping into intergovernmental relations. However, social actors do not share the views of political actors regarding the ownership and control of oil, and the incomplete resolution to this question explains the recurrence of this issue and its use by youth and criminal gangs to justify violent mobilization.

Conversely, in Canada, ethnicity is subordinated to interests around oil in the producing provinces. This has largely immunized the public sphere against ethnic politics, and in turn has ensured that oil-related conflict rarely assumes the significance, or intensity, in Canada that it has in Nigeria. In explaining the escalation of oil conflict from non-violent to violent, a convincing explanation must however transcend the earlier point concerning ethnic configuration as it relates to the location of oil, to account for the role of military rule and its impact on minority-majority politics of who gets what, when, and how from oil, a resource largely found in territories belonging to ethnic minorities (Obi 2010; Oriola 2013). Commenting on this transformation, Osaghae (2001, 14) noted the role of "the failure of the state to respond promptly and positively to the plight and demands of the minorities, and the violent repression strategies adopted by the state." Osaghae further observed that this development "forced the minorities to ditch their initial acts of defiance and civil disobedience for violent strategies, as survival became the main reason for struggle" (2001, 14).

In Nigeria, oil conflict does not merely involve disagreements over an important economic resource; these conflicts also feed into minority groups' deep-seated perceptions of marginalization, particularly the suspicion that majority groups have used their political power to entrench an unjust management system over oil. Canada's oil-producing provinces did express analogous feelings of marginalization by the majority, leading in part to Alberta's demands for a Triple-E Senate or an elected senate with equal powers to those of the House of Commons (CBC News 2008; Manning 1991), but the fact that the desire for the West to be 'brought in' was not truly about ethnic identity has helped to mitigate conflicts in Canada. However, the critical explanation of the relative lack of conflict, including the perception of marginalization, in Canada is the institutional arrangement concerning oil. In Nigeria, centralization of oil reinforced the perception of political marginalization of ethnic minorities in the oil-producing states, while the perception of economic and political deprivation cannot be sustained in Canada. In Canada, the oil-producing Prairie Provinces did not experience economic deprivation to the same degree as their counterparts in Nigeria because control over their lands and resources, which they did not have on entry into Confederation, was restored to them in 1930. To be sure, legacy of the historical dispossession of their resources still lingers, evoking and contributing to perception of 'Western alienation' (Gibbins

1979). However, the fact that the Prairie provinces won their resources back in 1930 makes the case remarkably different from Nigeria, in which what the oil-producing states consider as the historical dispossession of resources has become entrenched, and even magnified, over time.

Ultimately, from a historical institutionalist perspective, the cases of Canada and Nigeria demonstrate that the configuration of ethnic identities with regard to oil – whether reinforcing or overlapping, as in Nigeria, or not, as in Canada – does matter and has influenced institutional rules over oil. However, "institutions simply [do not] reflect identities and articulate their natural claims" (Lecours 2000, 511), but rather influence the degree of relevance of the configuration of location of oil and ethnicity on oil-related conflict. As Lecours noted, the historical institutionalist account better explains "how identities emerge, change, become politically relevant and are mobilized" (Lecours 2000, 511). From this perspective, "institutions not only play a crucial role in the organization and mobilization of interests and identities, they are also prominent in their definition" through their structuring role on power relationship, leading to different patterns and outcomes in different contexts and at different times (Lecours 2000, 513-14). Seen from this perspective, Canada's and Nigeria's particular interactions of social diversity and oil conflict are crucially products of the ways in which institutions, particularly federal institutions, structure these interactions. Nigeria has experienced bitter contests over transfers, in a way that Canada has not, due to the combination of oil-related grievances and the perception of ethnic marginalization. This divergence is not merely a result of the accidental mixture of economic and ethnic factors, or the nature of ethnicity as a mode of social differentiation for inter-group relations, which creates more demand for trust and reciprocity (Choudhry 2008; Horowitz 1985; McGarry and O'Leary 2005; McGarry, O'Leary, and Simeon 2008; Varshney 2007), but it reflects the specific ways that ethnic identities concerning oil were accommodated over time, leading to different patterns of identity mobilization and transformations. Nigeria's case in particular shows how the operation of federalism under military rule further reified and intensified the salience of sociocultural identities involving oil. Social cleavage relating to oil was reinforced by acts such as the proscription of state repression of oil communities' clamours for environmental and social justice, the incremental de-emphasis on the derivation formula, and the creation of states whose fiscal viability was guaranteed by the redistribution of centrally collected oil revenues. The hanging of Ken Saro-Wiwa and the Ogoni 8 was a prominent example of state repression, while the de-emphasis on the derivation formula created an increasingly uncertain revenue stream for the oil-producing states. Thus, although ethnic identities do matter in shaping political outcome, their salience, mobilization, politicization, and transformation were, in the long run, shaped by political institutions, especially federal institutional designs, structures, and normative practices. In addition, Nigeria's federal structure and norms under military rule constrained demands of the oil-producing states. Thus, these interests and identities were transferred from formal intergovernmental channels to the social realm, in which non-state actors were able to set new rules and challenge formal state rules and practices. This confirms historical institutionalists' perception of

institutions as both constraining and enabling instruments. Because prevailing formal rules and changes to those rules disadvantaged them, and changing these rules to their advantage proved challenging, the social forces in the Delta states such as MOSOP and MEND opted to act outside formal institutions to contest rules and prevailing norms, in order to reshape the institution to their interests. The violent strategies that some of these social forces adopted as part of the externalization of intergovernmental conflict to the social realm made oil-related disputes more politically contested and unstable. Yet, while the negative spillover of conflict over oil to the social arena in Nigeria and the prominent use of violent rapertoires in this shift implies a strategic behaviour of the social movements, they are not automatic occurences but also reflect the unintended consequences of the political opportunity structures provided by the country's institutional rule, especially federalism and its analogous rule of representative institutions which structure constituent units' participation in the national government's decion making.

In addition to the varying influences of sociological federalism on oil conflict, another structural factor that shapes conflict is the degree of dependence on oil resources. The variations in dependence on oil revenues among federations can help us gauge the level, intensity, and duration of conflicts over those resources. This is because, as Anderson (2012b, 372) noted, the "political salience of upstream petroleum issues in a federation is strongly influenced by the size of the sector relative to the national economy" (372). The extent of dependence on oil revenues may also partly influence the degree of centralization or decentralization over those resources.

Though Canada and Nigeria are both oil-rich federations, each country's petroleum sector varies in size relative to the national economy, and, by implication, each country's dependence on oil revenues also varies, with Nigeria being more heavily dependent on oil than Canada. Although their similar general status as resource-based federations, including the behaviour of resource-producing and non-resource-producing states/provinces, suggests similarities of behaviour, their varying levels of dependence on oil will contribute to divergent conflict dynamics. For instance, Anderson suggests that "the greatest federal government dominance of the industry where it is most important to a national economy" (Anderson 2012b, 372) and vice versa, with each of these structural arrangements providing distinct incentives for conflict.

The Nigerian experience partly confirms the above statement. As noted in Chapter 5, while the military significantly altered the fiscal arrangement over oil, the initial change to that arrangement, suggested by the Raisman Commission of 1958, was influenced by the changing exogenous circumstances brought about by the discovery of oil itself and its potential as an expanding source of revenue. The Commission argued that the expected expansion of oil revenues would intensify regional disparity if the previous fiscal arrangement at federalization in 1954, which stipulated the return of derivation to mineral-producing regions by 100 percent, was not adjusted. According to the Commission, compared to Nigeria's

other mineral deposits whose royalties "normally yield a fairly constant annual sum," the royalties from oil, even though comparatively small at that time, had the potential to "rise very markedly within the next few years" (Report of the Fiscal Commission 1958, 24). The Commission speaks on this potential impact of oil when it stated that unlike other minerals, "the problem is oil… Oil development might take place in any one of the Regions on a scale which would quite upset the balance of national development, which it is part of our task to promote" (Report of the Fiscal Commission 1958, 24). Against this background, the Commission recommended the reduction of the weight assigned to the derivation principle and introduced four other principles for use alongside derivation in the revenue formula: population, balanced development of the federation, continuity, and minimum responsibility. Accordingly, the Raisman Commission reviewed the revenue sharing formula and recommended the reduction of the share of minerals (including oil) in the derivation fund from 100 percent to 50 percent. The Commission also instituted the Distributable Pools Account (DPA) into which 30 percent of the mineral revenues would be deposited and shared between the three regions that existed at the time, and allocated 20 percent to the federal government. These recommended changes, which were accepted by the regions and colonial government, albeit with opposition from the then oil-producing Eastern region, were inserted in the 1960 and 1963 Constitutions and were in use before the military coup of 1966.

With the exigency of the civil war and fluctuations in oil prices, the military was able to make further changes that circumscribed the autonomy of the states. The oil boom of the 1970s and 1980s dramatically increased the degree of dependence on oil revenues, leading to a large economic disparity between the states and the federal government as well as between the 10 oil-producing states and 2 non-oil-producing states. The military's solution to this disparity was further centralization through reduction of revenues that are transferred to the oil-producing states based on the derivation formula, thus causing disaffection in the oil-producing states. This is the historical root of the current revenue arrangement with which the oil-producing states have expressed dissatisfaction. Although these states were able to extract increasing share of derivation (not less than 13 percent) during the 1994-95 National Constitutional Conference, which was subsequently entrenched in the 1999 Constitution, their attempts to increase this share from 13 to 25 percent in the interim and 50 percent later on have been rejected by the non-oil-producing states, which regard their demands as potential threats to their own economies.

Dependence on minerals also influenced the Canadian government to withhold control over land and natural resources in the Prairie provinces, when these resources development was necessary to generate money for the building of the Canadian Pacific Railway and for the settlement of immigrants, with the National Policy enacted following confederation designed to turn the Prairie provinces into what Brodie calls "frontier for central Canadian investment, a market for eastern manufacturers and a source of

supply for commodity traders" (1997, 250). But even after the return of the natural resources and lands of the Prairie provinces, the federal government's need for oil influenced it to withhold a portion of the oil sands as I discussed in Chapter four. The justification for this was that tar sands could be used for paving roads; however, this may not have been the overriding or only reason, as the federal government did not relinquish control "even when it became obvious that oil sands were not suitable for paving roads" (Alberta Culture and Heritage 2017b). It seems, therefore, that having 'forfeited' the conventional oil area, which it had previously controlled, to the provinces in 1930, the federal government had sought an alternative source of resources to use to further its economic and political power. The unconventional oil in northern Alberta fits this profile as, unlike the conventional oil that was being developed by the provinces and the industry, it was then still an emerging field in which the federal government had taken the lead and invested significant amounts of money for surveys and exploration. From the federal government's point of view, retaining control over the oil sands while relinquishing control over conventional oil to the Prairie provinces represented a win-win situation for both parties. The Prairie provinces' petulance over resource control would end, while the federal government and the 'dominant coalition' of interests that promoted northwest expansion would continue to exert control, much as it had done while retaining jurisdiction over Prairie resources. The federal government agency responsible for mining—the Mines Branch—would retain the power it had previously held as gatekeeper of the mining industry, and its officials would keep their bureaucratic positions. The Canadian case demonstrated that the importance of oil does not always involve money, but may also be connected to political-strategic considerations as well as power and patronage opportunities. Oil can also feature prominently in the federal government's redistribution framework, as the case of Nigeria demonstrates, thus creating clashes between governments that benefit from, or are disadvantaged by, such redistribution. The volume of oil revenues in the redistribution could also be the bone of contention, as the Nigerian example over the percentage of oil revenues to be transferred to producing states based on derivation, and the Canadian case regarding how oil revenues should be treated in the equalization program, have both demonstrated.

The final structural factor to be considered is the role of geography and geology. Given the role of natural resources in regional economic disparity, geology and geographic concentration of natural resources can affect the economic power of regions and provinces, the degree of disparity, and conflict potential. As noted in Chapters 4 and 5, the national distribution of oil in Canada and Nigeria was one of the factors that influenced conflict in each country. In both countries, oil is concentrated in a few provinces and states but not others. In Canada, André Plourde argues that geology is one of the three key factors that "have fundamentally affected both the development of the oil and gas industry in Canada and the evolution of Canadian energy policy" (Plourde 2012, 89). All Canadian provinces have oil reserves and could be described as 'oil-rich' even though not all of these provinces produce oil at the moment. Thanks to favourable geography, the location and distribution of onshore oil does not

coincide with that of offshore oil: onshore oil is concentrated in the Western provinces, especially Alberta, while offshore oil is concentrated in the Atlantic provinces, especially Newfoundland and Labrador and, to some extent, Nova Scotia. On the other hand, in Nigeria, both onshore and offshore oil are mainly located in the Niger Delta. In addition, and as stated previously, unlike in Nigeria, natural resource development occurs in several provinces in Canada. The absence of states' common front in Nigeria in challenging the federal government's centralizing impetus could be partly explained by the fact that oil, which is the dominant revenue source, is restricted to a few states. All the states in Nigeria do have non-mineral resources that could have provided incentives for a convergence of state interests. However, those resources belong to the federal government, which has refused to develop them. This is why it has been difficult for the states to coalesce their interests around the defence of decentralized ownership, control, and revenue frameworks.

Another major factor in interprovincial relations over oil is economic linkages, which have seen provinces in Central Canada benefiting from oil production in the key producing Western provinces. According to the Canadian Association of Petroleum Producers (CAPP), both Ontario and Quebec manufacturing sectors have played vital roles as suppliers of goods, materials, and services to the oil sands projects and to the Canada's oil and natural gas industry in general. An estimated 1,100 and 191 companies from Ontario and Quebec, respectively, directly supply a variety of goods and services to the oil sands; it is expected that 8% of jobs will be created for Ontario, and the province's suppliers are expected to provide about $221 billion worth of goods and services in support of new oil and gas projects across Canada in the next 20 years (Canadian Association of Petroleum Producers CAPP, 2014).

To be sure, economic linkages have not always been seen as win-win situations in Canada, and interprovincial partnerships have historically been difficult to forge as a result of the uneven distribution of economic opportunities and people. Since confederation, economic partnership based on East-West linkages have been criticized as favouring the bigger and more industrious Central Canadian provinces to the disadvantage of the Prairie provinces. Likewise, "uneven distributions of energy resources and people" has also led to the emergence of tensions between oil producing and consuming provinces early on in the life of the industry (Ploudre 2012, 89). As Martin (1975) noted, the emergence of Ontario as the country's industrial heartland has tended to shatter provincial consensus over natural resources due to the asymmetric power relations between resource-producing provinces, particularly Alberta, and Ontario. Yet, again, the fact that oil and gas were accorded the same constitutional rights as other natural resources under provincial jurisdiction is central to understanding the role of geography and geology in resource endowment. Oil and gas resources have "increased the scope for coalition building across provinces" (Tuohy 1992, 275), many of which do not have significant oil resources but have also become regional powers thanks to other natural resources such as water or timber, for example. This means that the provinces are heavily invested in provincial autonomy over natural resources, or the

maintenance of the pre-existing institutional arrangement designed at Confederation that vested natural resources in the provinces. This leads to a situation in which provinces build coalitions to protect their interests whenever natural resource conflicts arise. By contrast, such coalitions for the resolution of oil-related conflict are rare, even though not entirely non-existent, in Nigeria. This is because the resources belong to the federal government and benefits accruing to oil-producing states come at the expense of non-oil-producing states, many of which are rich in other natural resources that have been underdeveloped due to the federal government's exclusive attention to oil.

Also in Nigeria, there is no reciprocal economic relationship between main oil producers and manufacturing. The only link is through revenue sharing, and therefore the cooperation needed to ensure decentralization has not emerged; instead, vested interests are largely for centralization that would ensure continuing redistribution of oil revenues. These vested interests come largely from non-producing states (most, if not all, of) whose dependence on redistributed oil revenues is so high that their economies would crumble otherwise, and the federal government whose power and opportunity for patronage are enhanced by the redistribution of centrally collected oil. In turn, most state governments in Nigeria demonstrate pathological incentives for fiscal irresponsibility as their high reliance on intergovernmental fiscal transfers encourages them to spend money without having to earn the money from own source. At the same time, the centralization of revenues has spiraled persistent conflict between producing regions, which struggle to get a larger share of oil revenues, and the alliance of the federal government and non-oil producing states, which view such demands as threats to their own economic position. While this struggle has not led to secessionist demands by producing states, it has nevertheless featured the use of violence by groups claiming to be representing the oil producing communities. Further incentive is provided for conflict by the centralization of oil revenues, which in turn invites fierce struggles for the political control of the federal government itself which means power to dispense federally controlled oil. This is also one mechanism by which ethnicity is drawn into intergovernmental conflict in Nigeria. Given that political power also means power over oil rents, which in turn is the country's dominant revenues, fears that the ethnic or regional groups that controls political power (and by implication the controls of oil rents) will use it to benefit themselves at the expense of others has intensified conflicts between factionalized ethnic elites. As Cyril Obi notes, "in context of ethnic heterogeneity and elite fractionalization as in the Nigerian case, the struggles over oil merge with the struggles for power to fuel intense inter-and intra ethnic competition in the Nigerian federation" (Obi 2005, 187).

9.2.3. Political Practice or Process Related to Intergovernmental Bargain

The understanding of federalism as 'political practices' reflects the dynamic relationship, simultaneously stable and in flux, that characterizes the operation of federations. The operational dynamics of federations emphasize not only institutional structures or designs, but also, and more

importantly, how institutional structures actually function, how they affect and are affected by power relationships between orders of political authority. This relationship can "be integrated into a harmonious system of shared—and at times oppositional—powers" (Feeley and Rubin 2008, 19). This study also examined the interaction processes between federalism and a key political process or practice—mechanism of intergovernmental bargaining—on conflict over oil.

The view of intergovernmental bargaining and its influence on conflict adopted in this study is that of Bolleyer (2009, 3), who notes that the pattern of intergovernmental relations can be found in "the type of executive-legislative relations within the interacting governments" of a federation, as executive-legislative relations play critical roles in shaping the ways in which those governments adapt to intergovernmental processes or relations. In Canada, executive federalism is the dominant mechanism of intergovernmental bargaining, while in Nigeria, executive-legislative bargaining, through strict separation of power, is dominant.

The study demonstrates, in agreement with Hueglin (2008, 152), that executive federalism offers governments the flexibility to readjust power balance over policies without the difficulty arising from these changes going through "new rounds of constitutional building." The study, however, also shows that these arrangements are vulnerable to policy reversals that influence conflict dynamics negatively, such as prolonging the conflict. This vulnerability reflects the low level of institutionalization of executive federalism, as well as the recourse to unilateralism that created legitimacy problems and isolated other provinces that would have served as veto to the reversal of agreements had they participated in the political settlements. Bolleyer (2009) noted that these weaknesses are common to power concentrating executive-legislative interactions. The frequent reversal of decisions or agreements reached was also related to the contingency of minority governments during this period (Lecours and Béland 2010). Prime ministers of minority governments were so desperate for votes that they were willing to commit the federal government to agreements that might not be implemented. The premiers of the coastal provinces of Newfoundland and Nova Scotia, especially Premier Danny Williams of Newfoundland, mobilized this weakness to extract far-reaching concessions for their provinces (Béland et al. 2017; Blake 2015; Dunn 2005).

The dramatic and contentious nature of disputes concerning offshore oil, such as Danny Williams' removal of Canadian flags from Newfoundland's public spaces, is not surprising when we consider that executive intergovernmentalism tends to submerge a focus on policy issues "in general political grandstanding" (Hueglin 2008, 152). This confirms Smiley's charge that executive federalism "leads to continuous and often unresolved conflicts which serve no purpose broader than the political and bureaucratic interests of those involved" (Smiley 1979, 106). However, such "undue politicization" of political grievances may also be useful in making political contestations open rather than being suppressed or stifled. Suppression of grievances can encourage the movement of governmental disputes

from the formal intergovernmental arena into society as a whole, where these disputes can be channeled towards subversive ends. Thus, in spite of its weaknesses, the First Ministers Conference provided an informal medium for frank discussions and helped nurture the taken-for-granted culture of cooperation and norm of give-and take that are essential to federalism. Thus, by creating a venue in which "high-level conflict" is brought into the open, the "competitive element that is required to trigger democratic responsiveness" (Smith 2004, 125; cited in Hueglin 2008, 153) is potentially introduced into federal-provincial politics via executive federalism.

By contrast, Nigeria used the more formal mechanism of executive-legislature bargaining, due to its presidential system. Because conflicts were resolved via acts of the National Assembly (NASS), it was difficult to make further changes to the political solution enacted in 2004. This confirms Bolleyer's hypothesis that the degree of intergovernmental agreements in federations with power-sharing executive-legislative relations tend to be strong (2006, 2009). However, before the final political solution, disagreement had arisen over the NASS' proposed changes to the president's initial proposal. While the conflict threatened to become intractable as a result of the legislators' modification of President Obasanjo's original proposal for political compromise, the need to resolve the impasse as elections approached transformed what would have been a gridlock into a conflict with a low degree of intractability.

The bill for the first political settlement—itself an amendment of the president's bill—was quickly and unanimously approved by a bicameral legislature composed largely of members from the majority non-oil producing states, and which, under a strict rational choice calculus, would lose oil revenues from the concession granted to the littoral states. This rare development in the history of non-oil and oil-producing states conflict nevertheless provided room to manoeuvre the potential difficulty that would have arisen, or that exists in a presidential system, in obtaining consent of the majority non-littoral states for a policy that benefits the minority of the states. This consent could be explained by the fact that the littoral states are governed by the ruling party at the federal level, and the majority of the NASS members were elected on that platform. However, support for the legislature's concession cut across party lines. I argue that the legislators' action was aimed at satisfying the goal of federal solidarity, underscored by what Elazar (1987, 154) calls "the spirit of federalism as manifested in sharing through negotiation, mutual forbearance and self-restraint in the pursuit of goals and a consideration of the system as well as the substantive consequences of one's act." The political solution further demonstrated the legislators' show of strength and institutional independence against an overbearing executive reflected by the 'imperial' presidency of Olusegun Obasanjo, which was partly a product of Nigeria's authoritarian heritage and partly a result of Obasanjo's own leadership style. I also argued that much more than this, political solution demonstrated the legislators' show of strength and institutional independence against an overbearing executive as exemplified by the 'imperial' presidency

of Olusegun Obasanjo, which was partly a product of the country's authoritarian heritage and partly a result of Obasanjo's own leadership style (Elaigwu 2012).

President Obasanjo refused to sign the proposal, justifying this decision on the basis of potential conflict with neighbouring maritime countries if oil produced in the continental shelf was used as the basis for derivation, and potential loss of revenue on the part of non-oil-producing states if such an expansive concession was granted to the littoral states. Obasanjo's second reason for vetoing the legislators' proposal aligned with objections of the non-littoral states whose governors openly criticized the deal. The same legacies of existing institutional paths, such as a centralized authority pattern over oil with an emphasis on significant redistribution of centrally collected oil revenues, generated high switching costs that ruptured the NASS's attempts to provide generous concessions to coastal states that would have seen the derivation formula applied to revenues from offshore oil exploited from as far as the continental shelf. The president's veto resulted in a stalemate, with the NASS using the veto as one of their justifications for threatening to impeach him. However, as this study demonstrates, electoral pressures led to a quick resolution of the crisis, thus preventing the conflict from becoming intractable. This finding is at odds with Linz's (1990) hypothesis that presidential systems are prone to gridlock and stalemate. Even though the legislators did not succeed in pushing through their initial proposal, their action, especially the action of the legislators from the non-oil producing states, draws attention to the discrepancy that could emerge between legislators performance of their roles as people's representatives and as politicians interested in furthering their own personal interest or ideational frame about federal community, and or protection of the independence of the legislature as an institution.

9.2.4. Critical Junctures, Path-Dependence and Historical Evolution of Federal Institutions over Oil and Oil Conflict

This dissertation draws on the historical institutionalist framework, which urges attention to how political processes unfolds over time rather than seeing these processes as 'snap shots' (Pierson 2004). Béland (2005, 29) argues that "historical institutionalism is based on the assumption that a historically constructed set of institutional constraints and feedback structure the behaviour of political actors and interest groups during policy making process" and it helps us to better account for "the impact of long-term institutional legacies on policy-making." A long-term view of institutional rules and the conflicts over those rules helps us to better investigate the origin and change of institutions. Such a focus on institutional genesis and change are central to understanding the "ways in which institutions are the product of political contestation and compromise, how they are renegotiated and reformed over time, and how institutions take on forms, functions, and meanings that their creators never intended" (Immergut and Anderson 2008, 360). This understanding cannot be gleaned from snapshot views of

politics, as seem to be commonplace in studies of politics (Immergut and Anderson 2008, 360; Pierson 2004). I argue in this dissertation that, given the dynamic character of conflict, it is important to adopt a longitudinal approach if the nuances and developments of conflicts over time are to be adequately observed. In giving attention to the evolution of conflict over time, this dissertation focuses on the historical construction of federal institutions, which as Broschek (2011) noted, shapes the patterns and modes of adjustments in federations and the pattern of conflict arising from such adjustments. I further argue that in both Canada and Nigeria, the incentives for conflict built into the varying models of allocating constitutional competence over oil were historically constructed.

The first point, which can be traced to the constitutional settlements of these two federations, is the interaction of historical contingency and agency of political actors in the evolution of authority relationship over ownership and control of oil. Prior to federation, Nigeria was a unitary state under British colonial rule, in which authority over mining rents and mineral oil was vested in the British crown and not the constituent regions made up of the original three federation partners, from which another region was created in 1964, with subsequent state creation exercises bringing the number of states to the present 36. Unlike Nigeria, the three colonies that became the first four provinces of Canada – the Province of Canada (Ontario and Quebec), New Brunswick, and Nova Scotia – and the two provinces added later – British Columbia and Prince Edward Island – were already self-governing entities. All of them but Prince Edward Island entered the union with their public lands and natural resources; in the case of Prince Edward Island, these lands were already allocated to private owners, which was compensated for by grants in lieu of these lands, in order to enable the province to carry out public service like the other provinces (Martin 1920). Hence, they jealously guarded these competences during the negotiation for the entrance of the original four colonies into Confederation, and ensured they retained them under provincial jurisdiction in the British North America Act as well as in the acts that heralded the entrance of British Columbia, Prince Edward Island, and Newfoundland into Confederation.

To be sure, the case to retain these resources would have been made easy by the fact that, during this period, the development of natural resources was still in its infancy in most of these provinces. Also, oil, which later became the biggest revenue earner of modern times, had not yet become important, even though none of the Fathers of Confederation would have claimed to be oblivious to its discovery in Ontario several years prior to the first Confederation Conference in Charlottetown, or even dispute its immense potential. The fact that Newfoundland was required to submit its public lands and natural resources as a condition for the grant of subsidies, necessary to enable it to invest and sustain public services and programs at par with the four original provinces, before being accepted to join Confederation means that the importance of lands and natural resources was not lost on the Canadian Fathers of Confederation. Thus, the reality is far more complicated than the popularly held view that historical accident—the fact that Confederation took place when oil was not an important resource—

accounted for why provinces were given competence over oil, a resource that later became the "engine" and "lifeblood" of the world's economy (Yusgiantoro 2004; Carlyle 2013). I have argued in this dissertation that we should accord significant attention to the role of interests and agency in order to achieve a more robust account of why provinces retained their lands and natural resources during that turning point in Canada's history. Yet, I also demonstrated that the interests and agency are, ultimately, 'institutionalized actions,' pointing to how these interests and strategies were shaped by institutional arrangement, including the legacy of the pre-federal institution path as established prior to confederation in 1867, which served as both material and ideational resources or assets for the premiers of the colonies and later new Canadian provinces in staking their claims over these resources.

The different federal origins of Canada and Nigeria can help us comprehend the role of political power play and agency in each country's authority pattern concerning natural resources, and the path-shaping roles of prevailing institutional arrangements prior to federalization which provided opportunities and constraints to actors representing what later became federal and state/provincial governments in both federations. Attention to origin throws more light on the bargaining powers of the governments that form federations, a fact that points out their pre-federation powers and rights. In Canada, the four original confederating partners joined the union by consent, and by implication, retained the natural resources with which they came into the confederation. In Alfred Stephan's (1999) parlance, the original Canadian confederation was a "coming together" federation, by which previously autonomous or semi-autonomous states accreted or aggregated. Prior to confederation, these colonies and provinces had some experiences in responsible self-government, with exercise of authority over their natural resources, and this gave them the bargaining power to preserve their vested interests over these resources. The situation in Nigeria was somewhat different. Although the various kingdoms, empires, and indigenous communities that made up the territory that later became Nigeria existed as sovereign states and exercised some form of governmental authority over their resources before the formation of the country, their independence was compromised by the forced non-consensual amalgamation of the British protectorates of Northern Nigeria and Southern Nigeria and the Colony of Lagos to become Nigeria in 1914. Unlike the Canadian colonies, which gained self-government and control of resources before Confederation in 1867 and thereafter, the Nigerian regions existed without such self-government prior to federalization in 1954. Thus, even though the formation of the federal system in 1954 was a consensual one, negotiated in several constitutional conferences, similar to the conferences leading to Canadian confederation, in Ibadan and London, Nigeria had been administered since 1914 as a unitary state. It had been administered separately as the Northern Provinces, Southern Provinces, and Lagos Colony (Esmail 1979), but these regions had no prior existence before their creation in 1951. Thus, Nigeria, to use Alfred Stepan's words, was federated in a "holding together" process, in which a formally unitary entity was disaggregated or carved out from within the polity into constituent parts for the purpose of federation.

Since the introduction of the elective principle in the Clifford Constitution of 1922 and centripetal forces inherent in the three regions created informally in 1939 and formally in 1946, regional territories largely coincided with the homelands of Nigeria's three main ethnic groups. Other ethnic groups in these regions forced concessions from the British regarding natural resources, such as the derivation principle. However, the British had earlier staked their interest in natural resources through the 1914 Mineral Oils Ordinance following the creation of Nigeria in that year (Frynas 2000) and had consolidated this first-mover advantage with other laws over time. For instance, the Mineral Ordinance of 1916, reproduced in the Mineral Oil Act of 1946, stated unambiguously that "the entire property in and control of all mineral oils, on, under or upon any lands in Nigeria, and all rivers, streams and water courses throughout Nigeria, is and shall be vested in the crown" (Frynas 2000, 74; Omoruyi, cited in Omeje 2006, 126).

The emerging Nigerian nationalists opposed this move and mobilized against it initially, but seemed to have let the issue die down on realizing that, as the successors to the British Crown, they would assume leadership of the central government and would benefit from this centralizing trend. At the same time, local merchants and businessmen who might have challenged this move were not available due to the foreign business interests surrounding these resources. With Nigeria's independence and the takeover of the government by Nigerian nationalists, several other incremental reforms were carried out, especially during military rule, to consolidate on the path laid by the British with the Mineral Ordinance Act of 1906. A major reform in this regard was the 1969 Petroleum Act by the military government, which transferred ownership of resources from the British Crown to the federal government.

The importance of origin on the bargaining powers of federating states can be further gleaned from the Canadian case. As Watts (2008) noted, Canada originated not only from a coming together process relating to the original provinces and, later, the provinces of British Columbia, Prince Edward Island, and Newfoundland, but also through the holding together process by which the vast territories of Rupert's Land and the North-West Territories, which Canada assumed from the Hudson's Bay company, were disaggregated into the provinces of Manitoba, Alberta, and Saskatchewan and the Northwest Territories, Nunavut, and Yukon. However, unlike the provinces that joined Confederation by coming together, the provinces that were 'carved' out of territories Canada purchased from the HBC did not have the same constitutional rights over natural resources for several years after joining Confederation. This led to struggles for these provinces to regain control over their lands and resources, until they gained equality with the other provinces in 1930. As with the Nigerian states, the Prairie provinces did not enter Confederation as self-governing entities with control over their own resources, unlike the provinces that had willingly/consensually joined Confederation. The Nigerian regions, can, arguably, be said to approximate in some ways the status of these Prairie provinces during the period before 1930, as they were deprived of their natural resources by the federal government, which had appropriated those resources for itself. However, Canada had already set a path in terms of decentralized

constitutional authority over ownership of natural resources, which had earlier been allocated to the provinces at Confederation in 1867. Nigeria had no such precedent or institutional legacy. The Canadian provinces, unlike their Nigerian counterparts, therefore had an antecedent institutional design in the BNA Act of 1867, on which they could rely as a bargaining resource and ideational frame in lobbying for the return of their natural resources. Barring such a precedent, it would have been difficult for the Prairie provinces, given their mode of entry into Confederation as 'creations' of the federal government, to convincingly argue for constitutional equality, and the 'logic of appropriateness' (March and Olsen 1995, 2011) that they legitimately deserve to be treated as the other provinces that formed Confederation in 1867 and others that joined after 1867.

According to Paul Pierson (2000, 252), path dependence explains "social processes that exhibit increasing returns" in such a way that "preceding steps in a particular direction induce further movement in the direction" with the "probability of further steps along the same path" increasing "with each move down the path." The Canadian and Nigerian examples therefore demonstrate the importance of path dependence in understanding conflict over ownership of oil. In both federations, the initial decisions made during critical moments later induced further movement in the same directions that consolidated the earlier steps taken. These decisions were the provincial ownership of natural resources in Canada and the central government's ownership of resources in Nigeria. While this path was ruptured with the withholding of the resources belonging to the Prairie Provinces by the federal government, the institutional legacy related to the earlier path was critical in the return of these resources to these provinces.

It can therefore be argued that the institutional logic arising from the disaggregative nature of their federal origins contributed to nudging Nigeria's current oil-producing states and the Canadian Prairie Provinces before 1930 towards similar paths of federal government control of natural resources, even though the historical and constitutional backgrounds of these oil-producing constituent units differ. Yet, the decentralist path taken before Alberta and the other Prairie provinces joined Confederation proved decisive in acting as institutional memory and bargaining resources/discourses that would steer these provinces towards control of resources as was the case for the other provinces. Nigeria has proceeded in the opposite direction, which consolidated the early paths laid at state formation and reaffirmed at federation, emphasizing central control of oil resources. Indeed, without the decentralist path-shaping origin or institutional legacy that Canada had at its critical junctures of state formation and federalization, the states in the main oil-producing region of Nigeria, which were subsequently created from the original three regions, lacked similar memory and resources to strengthen their claims for resource control.

Although path dependence may "set into motion institutional patterns or event chains that have deterministic properties" (Mahoney 2000, 507), these patterns are not irreversible or impervious to

change. Institutions may "normalize or naturalize" some "states of affairs," and "also provide arenas for contests and offer the potential for change" (Katznelson and Weingast 2005, 16). Unlike previous studies of historical institutionalism, which emphasize the possibility of these changes at critical junctures that act as radical rupturing of established paths, recent studies point out that changes can also be induced by endogenous processes involving power-political struggles within and about institutional rules (Thelen 2010). The accent on power-political struggles is important because, while they may facilitate cooperation and help resolve collective action problems, institutions "are always seen as distributive switchboards and as peopled by individuals and groups with a range of assets and possibilities. While some relationships within institutions cluster people who share attributes and are located in structurally equivalent places, others convene ties between people of different circumstances and abilities" (Katznelson and Weingast 2005, 15-16).

Indeed, the Canadian example demonstrates that the accident of history in the origin of federations does not suffice as an explanatory factor, and so we must turn to agents and their preferences, which of course are not static (Katznelson and Weingast 2005) for a better account of contestation over institutional rules regarding natural resources. This was the case with Newfoundland, which had been a sovereign entity that controlled its own resources at the time of Confederation. Unlike the Prairie provinces, which were not original semi-sovereign entities at the time of Confederation but which nevertheless fought to regain their resources, Newfoundland had to abandon its move to join Confederation partly because of the requirement to submit its lands and resources in lieu of grants before joining Confederation. Natural resources in Newfoundland at this time had developed a constituency of merchants with vested financial interests in their development, and politicians who were ready and able to defend the retention of those resources. These merchants and politicians challenged what they called the giveaway of the province's natural resources, and this was one of the key issues that prevented Newfoundland from entering Confederation in 1867, with the anti-confederation party led by Bennett later emerging victorious in an election in which the natural resource question featured prominently.

Capoccia and Kelemen (2007, 248) define critical juncture "in the context of the study of path-dependent phenomena…as relatively short periods of time during which there is a substantially heightened probability that agents' choices will affect the outcome of interest." Unlike critical junctures that take place occasionally, endogenous institutional processes are ongoing activities in the life of an institution. The emphasis of historical institutionalism on endogenous changes demonstrates that even when critical junctures open up more possibilities for change or continuity, the direction of the path is not predetermined and must be shaped by the power-political struggles of institutional actors (Thelen 2010). Some of these influences may themselves be shaped by issues beyond purposeful human action that evolve incrementally or gradually, such as historical or situational contingency. This was the

case with the conflict over control and sharing of oil revenue exemplified by the NEP in Canada. As stated previously, this conflict was provoked by the exogenous shock of the OPEC oil crisis, which created the need to rebalance institutional arrangements over oil in order to appropriately respond to the exigency created by the crisis. However, there were disagreements over the pattern, direction, and pace of change. The prime minister believed that the existing institutional arrangement was inadequate or had limited capability to manage or cope with the crises, and thus required adjustment. The changes that Trudeau proposed were radical in the Canadian sense, though Canada had witnessed major constitutional settlement over primary authority regarding oil since the Prairie provinces won the constitutional rights over their lands and natural resources in 1930. The confluence of institutional legacy, political power of the provinces, and historical contingency ensured that, rather than leading to being entrenched, the changes introduced by the NEP were eventually reversed. Seen from this perspective, the critical juncture became what Capoccia (2015, 165) calls a "near miss." Yet, the fact that choices made by actors at critical junctures "trigger a path-dependent process that constrains future choices" (Capoccia and Kelemen 2007, 248) has affected federal-provincial relations following from the critical juncture of oil price crises. As Monica Gattinger (2015) noted, with the defeat it suffered during the NEP crisis, the federal government became reticent in intervening or showing leadership on oil policy.

Unlike in Canada, in Nigeria, the critical juncture of the oil price crises generated a path-dependent trajectory that has endured since then. Nigeria also experienced the critical junctures of military rule and civil war, which occurred from 1967 to 1970. Against this background of multiple critical junctures taking place almost simultaneously, institutional reform entrenching centralization was relatively easy to carry out. Military rule, which coincided with a three-year civil war and later two oil booms, turned what was a balanced federation at independence in 1960 to one in which the federal government gained ascendancy. Ruling without the constitution for the most part, and with the exigency of war and post-war reconstruction, which require a financially robust federal government, military governments in Nigeria were unconstrained by the joint decision trap inherent in a constitutional multi-level order in which provinces/states and or national or state assemblies serve as veto points, depending on the political arrangement, in constitutional change. In addition, initially, the civil war generated a shared sense of support for centralization as all the states, including the three oil-producing states (except the secessionist eastern region, later known as the east central state), were willing to endure centralization of economic resources to enable post-war rehabilitations (Elaigwu 1989). The post-war period, which coincided with the oil boom, also generated its own logic in favour of centralization, with demands for centralization coming this time from the country's nine non-oil-producing states. These states regarded the existing derivation principle, which favoured the three oil-producing states, as a source of serious horizontal financial disparity. The military reduced the weight of derivation on mining rents and royalties, and centralized these and other revenues that had previously been shared between the states

based on derivation. In place of derivation, the sharing of oil revenues from the Distributable Pool Account (DPA) between the states was largely based on the principle of equality of states and population. In addition, the creation of states from the four powerful regions prior to the civil war weakened the bargaining power of the constituent units relative to that of the federal military government.

The weaving of the roles of interests and historical influences is one of the core strengths of recent historical institutionalist scholarship (Katznelson and Weingast 2005). Unlike rational choice institutionalism, which emphasizes interests but which tend to assume a fixed nature of interest or infer prior or ex ante preferences to actors (Katznelson and Weingast 2005), historical institutionalism argues that interests may change according to changing circumstances. As Fioretos, Falleti, and Sheingate (2016, 6-7) noted, "rather than fixed and given exogenously...temporal processes may generate and reinforce actor preferences, power relations, and patterns of resource allocation."

A major shortcoming of earlier forms of historical institutionalism, according to Guy Peters (2012), is their reliance only on history to explain events. Peters argues that, at times, such reliance on history on its own amounts to functionalist accounts, akin to explaining that "things happened the way they did because they had to, because of the historical and institutional forces at work at that time" (Peters 2012, 88). Such a characterization of history becomes incapable of explaining institutional changes that happened in unexpected ways (Peters 2012, 88). Recent scholarship on historical institutionalism that fuses interests/preferences of agents with historically developed institutional accounts provides a way out of this shortcoming, which is useful for the purposes of the case studies described here. For instance, in Canada, for example, the Prairie provinces were initially not averse to federal control of their resources and lands because the grants they received in lieu of those resources were urgently needed for the immediate task of developing the newly created provinces (Janigan 2012). As noted in the Report of the Royal Commission on the Natural Resources of Alberta (1935), when the Legislature of Alberta requested a review of the resource arrangement in 1910, it was not forceful in this demand but "contemplated only a limited departure from the system of federal administration and control of the natural resources of Alberta" (13). However, with the election of a prime minister in 1911 who had promised to transfer the resources to the Prairie Provinces, Alberta made a far-reaching demand for the return of its resources, citing the problem of "rapidly increasing population of the Province of Alberta [which was] placing ever-increasing burdens upon the revenues of the province," the federal government's failure to develop transport facilities, and the provincial government's assumption of some regulatory functions on coal while the royalty from this resource went to the federal government (Report of the Royal Commission on the Natural Resources of Alberta 1935, 14).

Katznelson and Weingast (2005, 3-4) have said of the intersection between the rational choice institutional focus on interests and preferences and the historical institutionalist focus on history "that

the building blocks of preferences—including interests, desires, values, opinions, tastes, and morals—[should] be located inside thickly inscribed temporal and spatial contexts gain power both from relatively focused designations of preference within processual accounts of institutional dynamics." Kathleen Thelen (2010) argues that a nuanced historical institutionalist account must transcend analysis of "comparative statistics" in order to present a "genuinely dynamic model of institutional evolution and change" that seriously engages and accounts for the "power-political, distributional … struggles that shape and reshape ... institutions over time" (43). The roles of agency and preferences are central to such an account (Katznelson and Weingast 2005). For example, Canadian scholars have noted that offshore oil conflict was more prominent in Newfoundland than in the other Atlantic provinces due to the emergence of premiers willing to exploit the grievances of the people against Ottawa. Though, as Blake (2015) noted, "Newfoundland premiers, regardless of political affiliation, could be generally regarded as lions, not jellyfish, as they have actively tried to uphold the province's interests in their negotiations with a federal government that had different, harder, concerns" (20), some have been more active than others, depending on historical contingency, the idiosyncrasies of the premiers themselves, and the issue at stake. In the matter of offshore oil conflict, two premiers—Brian Peckford and Danny Williams—stood apart. For instance, Bannister (2003, 131) pointed out that Peckford's election as premier in 1979 and his mobilization of the nationalist sentiments surging in Newfoundland in the 1980s "transformed Newfoundland nationalism" into "a new phase of development" and provoked "a surge in nationalist sentiment." Higgins (2011) has noted that Brian Peckford "introduced a new style to provincial politics," observing that his "assertive and often combative approach contrasted with" those of former premiers "Moores' laid back manner and Smallwood's deference towards Ottawa." Clancy (2011, 245) also noted that Danny Williams, in a manner reminiscent of Brian Peckford, "injected new life into the East Coast (Nova Scotia-Newfoundland) alliance" at a time when Premier Hamm's campaign for fairness had "become tired and perhaps faintly defeatist in the face of Ottawa's lack of interest" (Clancy (2011, 246). Williams's campaign provided an important mobilizational impetus for these provinces as they attempted to wring concessions, or guarantees of an end to the offshore clawbacks, from Prime Minister Martin, who had called a sudden election in June 2004, and the leaders of the Conservative Party and the NDP who were challenging him in the election. Faced with a sponsorship scandal, a Liberal party divided between his own supporters and those supporting his predecessor Jean Chrétien, and dwindling prospects of forming a majority government, Martin was reported to have grudgingly acceded to Williams's proposal, vague as this proposal was then, with Clancy (2011, 246) concluding that Williams's "blunt and aggressive populism" achieved what "John Hamm's polite and reasoned noblesse had failed to deliver over the previous four years."

Thus, key provincial actors, navigating what they believe are historically situated constraints within which their provinces have operated, were able to utilize the incentives already provided by Canada's federal institutional settings for onshore oil to influence policy outcomes for offshore oil. These

institutional settings and incentives were themselves filtered through the lenses of perception of historical marginalization and the ideational frames of institutions. To be sure, these actors may have vested personal interests in a particular outcome, such as the enhancement of their electoral prospects. However, it is unlikely that conflict would have assumed its particular dynamics or changing/stable characteristics, such as the level of assertiveness of demands or concessions won, had particular leaders not emerged at specific historical moments to activate the pursuit of provincial interests in the ways they did or through the ideational frameworks they used. The variations in conflict dynamics, not only between federations but also within the same country and even the same region, such as the Atlantic provinces, reflect the intricate interplay of institutional and historical legacies, the choices and capabilities of institutional actors, and mobilization of resources at the federal or provincial/state levels. Neither the intrinsic dynamics of institutions nor the path-dependent or historically determined constraints or incentives provided for institutional development would suffice to explain the outcomes of political or policy struggles over offshore oil, or any policy area for that matter, without recourse to the categorical imperative of political agency as an activating force of institutional dynamic and political processes. Yet, we should be careful not to ascribe causal significance to actors strategies and preferences than warranted as "the prevailing structures influence the kinds of change-agents and change-strategies that are more likely to emerge and succeed in institutional contexts" (Thelen 2010, 55). In other words, the broader pattern of politics and political dynamics are themselves shaped by institutional contexts (Jackson 2010; Thelen 2010).

The Canadian and Nigerian examples of oil conflict demonstrate how the interaction of federal institutional rules (both formal and informal), structural factors (social diversities around oil, and political economy factors regarding dependence on oil, geographical concentration of natural resources as well as the market division of the country into producing and consuming regions), and political processes or practices relating to intergovernmental bargaining, can lead conflict over oil in different federations to follow and reproduce previously established institutional paths. This echoes the historical institutionalist notion of path dependence and its mechanisms of increasing returns and self-reinforcing processes. In other words, both Canada and Nigeria have displayed a fundamental symmetry, rather than a departure, in federal institutional rule over oil. However, reflecting institutional legacies, the direction of this convergence is asymmetrical from a comparative perspective. Canada's oil regime has continued on the decentralist path earlier set for natural resources in general, while Nigeria has maintained an overall centralist authority pattern for mineral resources. This supports van Gestel and Hillerbrand's (2006) assertion that "one of the main reasons why path dependency exists is that an initial path tends to obtain a relative advantage over an alternative path due to the switching costs involved with radical change. Existing rules, values, knowledge remain valuable as long as one stays within the same path and even may strengthen this path because these rules, values and knowledge, through using them over and over again may be deepened and refined" (cited in Welz 2008, 101).

To conclude this section, the examples of both Canada and Nigeria with regard to mineral resources indicate continuity, and even strengthening, of earlier institutional paths, unlike the broader Canadian and Nigerian constitutional arrangements, in which several scholars have noticed deviations from the original texts and intents of each country's respective constitution. In Canada, the overall design of the federal arrangement borders on centralization (Wheare 1963) However, the allocation of competency over natural resources in Canada did not fit into this general trend, as these resources were allocated to the provinces, albeit with some roles for the federal government in areas such as trade and commerce and taxation. Early affirmation of this competence following Confederation firmly established the provinces as leaders in the natural resource sector. This affirmation sometimes even bordered on incursions into areas not thoroughly within the natural resource field but auxiliary to it. This was especially the case in Ontario and Quebec, with contestations over the resources of the Laurentian Shield (Armstrong 1981; Stevenson 2009) as examples of this process. Many of these political contests were settled in court, with the outcomes of the cases largely tipping the balance in favour of the provincial governments by fragmenting the trade and commercial power of the federal government such that authority over some form of trade was vested in the provinces. This undermined the exclusivity of federal power as indicated in the original constitution (Dymond and Moreau 2012).

Thus, in the early years after Confederation, natural resources over which provinces had primary jurisdiction had helped to limit the federal government's centralizing powers. This, in conjunction with the other important economic sectors of manufacturing and agriculture, led to the production of "a federal system very different from that which the Fathers of Confederation had intended" (Stevenson 2009, 80). The emergence of oil in commercial quantity following the Leduc discovery of 1947, which coincided with the period that oil became a significant economic resource, was to further deepen the decentralization trend, making the western provinces, and particularly Alberta, increasingly important and contributing over time to a shift in the balance of power to the provincial governments from the post-war dominance of the federal government. With the balance of power in their favour and with the emergence of a coalition of entrepreneurial premiers who were very committed to defending the constitutional powers vested in provinces over natural resources, the western provinces, led by Alberta, sought to contest the federal government's use of its power over international/interprovincial trade and commerce, as well as indirect taxation to capture more rents for itself during the period of oil booms in the 1970s and 1980s. Further attenuation of the federal government's power and enhancement of provincial power was to come again in 1982 with the addition of Section 92A, which "further weakened the federal trade and commerce power…and extends taxing powers of provinces from only direct taxation as previously provided for in the constitution act to both indirect and direct, again subject to the non-discriminatory clause" (Dymond and Moreau 2012, 61-62).

In Canada, the legacies of established institutional paths for onshore oil and the identification of provincial communities with these paths have combined to impose a high switching cost on a centralized model of oil jurisdiction, legislative, and revenue rights. Even in the offshore oil subfield, in which internal law and the Supreme Court favoured a centralist authority pattern, switching to that path was impossible. The substantial and wide discretion conceded to the provinces in the management of offshore oil can be explained as a reflection of the converging influence of the federation's constitutional design and the normative idea of federalism. With the original constitutional allocation of primary responsibility over natural resources given to the provinces at Confederation, it was generally taken for granted that oil and natural resources, whether on land or offshore, were the interests and identities of the provinces. Provincial communities' identities increasingly became tied to the provinces' control of natural resources, and this led to widespread support for a decentralized federal institutional design. The settlement of offshore oil rights in Canada, therefore, represented a path-dependent trajectory of the earlier institutional rule that the original federalizing provinces, and others that joined after them, brought into Confederation. For the most part, the oil policy field displayed a historical continuity between earlier and later institutional paths. However, this was neither preordained nor predetermined. Provincial actors, including those of the Prairie provinces, vigorously defended the early paths. Unlike the other provinces, the Prairie provinces were created by devolution from a unitary entity, but like the other provinces, they promoted their interests in resource control while relying both on constitutional powers over oil and on normative ideas of federalism as bargaining strategies to win control of their resources.

In its original design, the 1954 Nigerian federal constitution provided for decentralization, reflecting what Mr Geoffrey Fitz-Clarence, the British Parliamentary Under-Secretary of State for the Colonies, described as the "realities of the political situation in Nigeria" (House of Commons [UK] Debate, February 10, 1954). By this he meant not just intense regional and ethnic decentralist pressures that were ventilated through regional political parties, but also separate educational development and cultural/religious differences, which served as centrifugal forces to pull the regions away from each other. Thus, the constitution was designed so as to give due recognition to the "the considerable differences which still exist between the Regions…by giving increased functions to the Regional Governments and making those Governments more independent of the Central Government in carrying them out" (House of Commons [UK] Debate, February 10, 1954). The regional powers were bolstered by enormous revenues allocated to them. Besides 100 per cent of derivation on import and export duties that went to the regions, 100 per cent of mining royalties and rents also went to them. In addition, they were in charge of the marketing boards, which had accumulated surpluses before the responsibility to manage these boards was even transferred to them by the colonial government in 1954. Politically, the wide regional powers granted to the regions as compared to the centre could also be explained by the fact that "federal leadership was a subsidiary of regional leadership" of the political parties (Ayoade

1988, 22-23). Indeed, the practical iteration of the regions' fiscal and political powers made them so strong that "there were talks of the 'regional tails' wagging the federal dog," with the regions, basking in their political autonomy, threatening to secede at various times prior to and after federalization (Elaigwu 2012, 328).

The immense powers of the regions and the need to make the new federating units financially self-sustainable as compared to the previous era led to the decentralization of mining royalties, which hitherto had been collected and retained by the federal government under the Mineral Ordinance of 1946. The Chick Commission of 1953, which had the mandate of recommending for the use of full derivation in revenue allocation between the federal governments and regions, recommended the continuation of mineral royalties, but also recommended that these royalties collected by the federal government should be returned by 100 per cent to the region from which the minerals were extracted (Report of Chick Fiscal Commission 1953). Thus, unlike in Canada, where dominant discourse and actual choice during Confederation were between unitary state and federal state (Ajzenstat et al. 1999; Correspondence Concerning Proposals for Inter-colonial Union, Legislative & Federal 1865), Nigeria had the third option of federalization, which reflected various autonomist feelings amongst the regions. Even though as part of Nigeria's evolution into a truly federal state, a quasi-federal constitution was established in 1951, intense decentralist pressures were kept alive, due to ethnic-regional conflicts, which convinced the British of the indispensability of a federal framework for the country. Autonomist regional feelings had also been implanted into the psyche of Nigerian political leaders, and these feelings combined with continuing ethnic tension culminated in the self-government crisis of 1953, which Lynn (2006) described as the primary antecedent for the critical juncture of federalization of 1954. These pressures gave the British little room to manoeuvre to retain the centralized framework and slow reforms which they had envisaged for Nigeria (Lynn 2006). For instance, in his December 1953 Report on the Financial Effects of the Proposed New Constitutional Arrangements, A. L. Chick, the Fiscal Commissioner, noted that during the consultations for the review of the revenue allocation system in 1953, the regional governments tended to view themselves as creators of the federal government, on whom the federal government should depend to carry out its responsibilities. Chick noted that such expansive views of regional autonomy were "inconsistent with the type of federal constitution proposed" (Report of Chick's Fiscal Commission 1953, 14). One region appeared "to regard the Federal Government as little more than the agent of the Regional Governments" while others expected that the federal government would receive grants from the regions in order to fulfill its functions (Report of Chick's Fiscal Commission 1953, 14). As practical evidence of the regions' autonomy, the Nigeria (Constitution) Order in Council, 1951 was revised and the residual powers were transferred from the central government to the regional governments in the 1954 federal constitution. However, British colonial officials also envisaged checks on sprawling regional powers to come from the allocation of functions that were essential to preserving the unity of Nigeria to the central government, as well as the

"introduction of separate elections to the Federal Legislature, gains strength and independence within its sphere" (House of Commons [UK] Debate, February 10, 1954). Two of those functions, which later proved decisive in shaping the federal balance, were the vesting of mineral resources ownership and control in the federal government. Even though the regions had immense political power as a result of the centrifugal pull of regional political parties, and this power was bolstered by the significant fiscal decentralization from such sources as mineral revenues, these powers were counterbalanced by the federal government's exclusive ownership and control rights over minerals. The provision regarding ownership and control of oil, which was made the exclusive jurisdiction of the British Crown thanks to the series of mineral laws passed in 1889 (as applied to the Colony of Lagos), 1907 (as applied to the Southern Protectorate), and 1914 (as applied to the whole country with the amalgamation of the southern and northern protectorates), and reaffirmed in 1946 (during the Richard Constitution of 1946). This pattern of ownership and control was retained at the London Conference of 1953, the last of the two constitutional conferences to prepare Nigeria for federalization, and the new federal constitution included 'mining' in the Exclusive Federal List (Report of Chick's Fiscal Commission 1953, 19).

This development reflected the early path-dependent trajectory of Nigeria's fiscal institutional design. The ownership and control powers over mineral resources were not particularly significant throughout the First Republic because agriculture, rather than mineral resources, was the dominant contributor of government revenues at the time. They would later prove decisive, however, especially as oil increasingly replaced agriculture and other minerals as the main source of revenue with the international oil price increases of the 1970s. Besides the contingent event related to the increase in oil prices, another contingent event, in the form of military rule, created greater opportunity for the possibility of reforms that reproduced and even heightened centralization. During military rule and its aftermath, the federal system was reconfigured fiscally such that Nigeria moved toward a more centralized federal structure, a different path than the decentralized, or at best, coordinate federal system, that its founding fathers and the British who engineered the federal constitution, had envisioned for it.

In this study, I consider military rule, particularly the Gowon military regime of 1966-1975, as a critical juncture because of the flexibility it opened for reforming federal institutional rules in ways that has been difficult to reverse. Military rule reconfigured Nigeria's federalism and contest over oil in several ways. On the one hand, it has mooted such conflict because most state governors 'voluntarily' consented to the head of state, who is normally their superior in the military hierarchy. However, Nigeria's second military government of 1966-1975 initially diverged from this general rule, as Yakubu Gowon was not the senior military officer but a consensus candidate chosen in the aftermath of the July 29, 1966 coup that resulted in the death of Aguiyi Ironsi, the military Head of State who assumed power in the first coup of January 1966. Although Gowon tried to woo the military governors of the four regions to his

side, and largely succeeded, relations between him and Ojukwu, the governor of the Eastern region, were frosty (Luckham 1971). Ojukwu insisted that Gowon was not qualified to be Head of State because he was not the most senior military officer after Ironsi, and he also believed that the Eastern region had suffered a great injustice related to the killing of Igbos in the north, while the Head of State did nothing to help (Luckham 1971; Ojukwu 1969). The personality clashes between the two, as well as Ojukwu's insistence on a confederal arrangement as a safeguard against the killings of Igbo in the north, which Gowon refused, led to a three-year civil war, which was quelled forcefully by the federal government. Afterwards, the relationship between Gowon and the governors reverted to the status quo under military rule, and the governors did not openly contest the changes to jurisdictional, legislative, and revenue powers over oil (Elaigwu 1985). However, even though military rule mooted conflict at the intergovernmental level, conflict did not end but was instead diverted to society as a whole. With the absence of state governors, social actors became the only source of resistance against the military. This is one of the mechanisms through which protests over oil turned to violent conflict in Nigeria.

Three other mechanisms helped entrench centralization during Nigeria's period of military rule. First, military rule prevented the emergence of political parties which the minority ethnic groups in the Niger Delta had previously used to form a coalition with majority groups that dominated the political parties in the First republic. Historically, the oil-producing states were composed largely of groups that are political minorities in the national sense, and were domiciled in the eastern and western regions where the majority Igbos and Yorubas dominated politically. However, these groups were able to network with the majority groups, especially during elections, to obtain concessions. With military rule, this opportunity for coalition building was lost. The absence of this important medium also contributed to pushing conflict into the social realm, with all the informality of conflict and its varying intensities. The minority-majority alliance did not yield significant concessions for the minority groups during the first republic. For instance, the promise of the ruling Northern People's Congress (NCP), the dominant party in the north, to the Niger Delta Congress (NDC), its minority party clientele in the oil-producing part of the eastern region, that it would create Rivers State as a Federal territory as condition for the NDC's support did not come to fruition when the NCP formed a coalition government with the NCNC, the dominant party in the eastern region after the 1959 election (Nwajiaku-Dahou 2009). Yet the potential role that political parties would have played for the oil-related claims and mobilization of the producing states for some concessions had democratic experience continued should not be discounted, as the experience of Alberta demonstrates. The United Farmers of Alberta, a non-mainstream fringe party led by Premier John Brownlee, played a crucial role in negotiating the Natural Resources Transfer Agreement of 1929 for Alberta in a kind of quid pro quo with Prime Minister Mackenzie King, in which Brownlee pledged continued support for King's fragile coalition in return for a share in the province's resources (Foster 2004).

Second, military rule undermined the possible role of the judiciary in enhancing decentralization in Nigeria's initial years as a federation. By contrast, the early decentralization drive in Canada was upheld by the Judicial Committee of the Privy Council (JCPC). This drive was led by Ontario, which had challenged the federal government's trade and commerce power that hindered the development of its natural resources. As Armstrong (1981) demonstrated, several challenges to the federal government's powers by Premier Oliver Mowat and others after him were decided in the province's favour, thus entrenching province building and serving as a bulwark against the centralizing forces of the federal government. Indeed, Ontario's challenge, which was based on the idea of Confederation as a 'compact' between the provinces in the belief that they created the federal government rather than being created by it (Armstrong 1981; Cook 1969), went beyond the natural resource field to incorporate issues such as regulation of corporate business and the disallowance power of the federal government. It would, however, be naïve to overplay the role of the courts; as Cairns (1971, 319) pointed out, "it is impossible to believe that a few elderly men in London deciding two or three cases a year precipitated, sustained and caused the development of Canada in a federalist direction the country would not otherwise have taken." Yet, it is important to note that the contours of the authority relationship would have been different had those challenges to federal government powers early in the life of the fledgling confederation been turned down by the courts. In Nigeria, the importance of the judiciary in safeguarding constitutional limits was brought to the fore during the return to democratic rule in 1983 and 1999, when governors successfully challenged the federal government on revenue and fiscal issues.

The third mechanism is the fragmentation of states. Military rule relaxed institutional constrainst for the creation of states. Nigeria's territorial units have increased from three at federation to the present 36 states, with all but four of these states (the original three regions created during colonial rule and the Mid-West region created by Nigerian politicians after independence) created by the military. As previously stated, with each state created by military fiat based on political considerations rather than the economic viability of the states (Aiyede 2002; Osaghae 2015b), new groups of actors heavily invested in redistribution of federally collected oil revenues, and hence centralization of oil resources and revenue collection have emerged. This was more so since the subsequent creation of states after the major state creation exercise of 1967, which many believed was necessary to rectify the lopsided nature of the federation in favour of the north and majority groups (Suberu 2001) favoured the non-oil producing states. The fact that most states in the federation overwhelmingly relies on such redistributed oil revenues indicate the great odds that the minority oil producing states who have been clamouring for resource control or increase in oil revenues transferred to them have faced.

It should be pointed out that, while the first fragmentation of states in 1967 was carried out to accommodate the demands of subnational groups for greater autonomy and to reduce the imbalance in the structure of the federation in favour of the northern region, which has more population and landmass

than the three other regions combined (Osaghae 1998), it was also shaped by strategic war considerations and critical antecedents of the pre-military era. As I mentioned in Chapter 5, Gowon used the creation of states to undermine the eastern region, which was preparing to secede. The creation of states for the minority ethnic groups where oil was located in the eastern region reversed their support for the secession, with many residents of these territories supporting the federal government in the civil war. The critical antecedent to state creation was the previous four regional state structures that were considered too powerful. As Elaigwu noted, "the creation of additional states from the four regions which existed by 1966 meant weaker states, with narrower resource bases" (Elaigwu 2012, 241). Gowon's intention to reduce the powers of the four regions was also central to the fragmentation. As Gowon himself noted, "under the old constitution, the regions were large and powerful as to consider themselves self-sufficient and almost entirely independent. The federal government which ought to give lead to the whole country was relegated to background. The people were not made to realize that the federal government was the real government of Nigeria" (quoted in Elaigwu 2012, 251). This reinforces the historical institutionalist argument that antecedent conditions or critical antecedents "shape the choices and changes that emerge during critical junctures in causally significant ways" (Slater and Simmons 2010, 887).

From the above, it is clear that the politics of oil in both Canada and Nigeria were decisively mediated by these countries' "core political structure" (Ikenberry 1994), specifically their earlier federal institutional rules. During specific historical junctures such as the international oil price crises of the 1970s and 1980s in Canada and the return of democratic rule to Nigeria in 1999, attempts were made to reconfigure institutional paths in new directions, but these attempts proved difficult. This is because, as Pierson (2001, 415) noted, "actors do not inherit blank slates that they can remake at will when their preferences change of the balance of power shifts. Instead they find that the dead weight of previous institutional choices seriously limits their own room for manoeuvre." In Canada, though centralization efforts did receive the support of non-oil-producing provinces, these efforts were short-lived, as they could not overwhelm existing material and ideational incentives and tolerance for decentralized natural-resource structures that favoured the provinces whether they produced oil or not. In Nigeria, the continuity of the early constitutional pattern was supported by a largely centralized federal culture, sustained by most of the states in the belief that decentralization would decrease the share of revenue that would be redistributed between the federal and state governments.

Another important lesson is that in both Canada and Nigeria, oil and the politics of oil played critical roles in redirecting the federations towards particular institutional paths from that envisaged for them at federalization. In Canada, oil – in conjunction with other factors such as Quebec nationalism and Privy Council judgements – helped the country maintain and reproduce the decentralized institutional path laid out at Confederation, but at the same time moved away from the broader or quasi-federalist/

centralist path of the original constitution. In Nigeria, oil – interacting with other contextual issues such as civil war and the incursion of the military into the government – pushed the broader decentralist tone of the constitution at federalization in 1956 in the opposite direction, toward centralization. Against this background, we can argue that in the absence of oil in Nigeria, the possibility for the development of a thoroughly decentralized federation exists. This is because oil, which has strengthened the centre, has encouraged fierce political competition between factions of the ruling class for control of the centre, from which political and economic power are derived.

However, despite the emphasis on path dependence, the continuity of institutional arrangements for oil was not merely a neat transposition of historical institutional paths or legacies. As Thelen (2010, 54, 55) noted, while "power-political biases inhere in institutional rules, underscoring not just the opportunities but also the constraints on actions that they [institutional rules] impose within a given context," institutions "do not define a 'rigid matrix' to which actors mechanically respond." Rather the processes of institutional reproduction and change…involve considerable struggle, conflict and negotiation" (Campbell 2010, 88; Thelen 2010), even though, as historical institutionalists emphasize, such contestations and negotiations "makes sense only against the backdrop of institutional context (Thelen 2010, 55). For instance, when the Nigerian states won the right to benefit from offshore oil production in 2004, the right they gained was different from what had originally been bequeathed to them at independence. At that time, the continental shelf contiguous to the regions was used as the basis for the application of the 50-percent derivation principle. By contrast, in 2004, the derivation principle was not only reduced to 13 percent in the new political settlement in conformity with the provision of the 1999 constitution, but 200-metre isobath, or roughly 25 percent of the continental shelf, was used as the limit for the application of the derivation principle. In Canada, the provinces have also had to share offshore resource control with the federal government. Thus, though institutional path dependence, or "history's heavy hand" (Ikenberry 1994), can "narrow conceptually the choice set and link decision making through time" (North 1990, 98), and even 'redirect' a new institutional path to mimic or follow established paths, as evident in the political compromise over offshore claims in Canada and Nigeria, the outcome of this rebalancing/reorientation act or reframing of policy problems is not a foreordained act or "a story of inevitability in which the past neatly predicts the future" (North 1990, 99). The constant negotiations and renegotiations of the terms of political compromises over oil in Canada and Nigeria aptly demonstrate this point. The dialectical nature of the negotiations is perhaps an indication that these negotiations, though constrained or incentivized by institutional, historical, and socioeconomic milieux, are carried out by political actors with conflicting interests, preferences, and values. Their perceptions of the meaning and purpose of the institutions they represent, and how these institutions contribute to their understanding of interests and resources, are different from one context to another, and may change over time even within the same country. This makes these negotiations dynamic political processes that are deeply imbricated with changing power relations.

9.3. Areas of Future Research

This dissertation set out to investigate the interaction between federalism and oil conflict, using the case studies of Canada and Nigeria. This thesis confirms the historical institutionalist argument that institutions are "the principal factor structuring collective behaviour and generating distinctive outcomes" (Hall and Taylor 1996, 937). Oil-related conflict was primarily shaped by federal institutional rules, both formal and informal, but as part of a configuration influences involving broader structural factors (including social diversity around oil, the nature and degree of dependence on oil, and the geographical distribution of natural resources) and political processes or practices related to intergovernmental bargaining in the polity within which federal rules are embedded. The constellation of these institutions affected conflict within specific temporal dynamics, including institutional origin, critical junctures and path- dependent trajectories. This final section discusses some directions for future research. Further empirical comparative studies on the nexus between federalism and oil conflict could focus on five important issues research direction that I did not cover to a great extent in this thesis but did briefly broach: the conflict in the relationship between federalism and oil-producing communities, the correlation between federalism and oil conflict in federations, and

The main subject area of this dissertation is intergovernmental conflict, though it has allowed for the considerations of mechanisms by which formal and informal institutional spheres interact to generate conflict potential. A fruitful direction for future comparative studies of the links between oil and conflict in Nigeria and Canada, or in other federations is the conflict between resource communities and governments. Indigenous oil-bearing communities in Canada and Nigeria share many common characteristics. For example, both have protested environmental injustice and inequitable resource distribution, and neither has ownership or control of oil resources, though efforts at devolution of control over oil to Canadian indigenous communities have been ongoing (Papillon 2010). However, these communities differ in important respects. The role of federalism in the conditions of indigenous people and their resource rights in Canada and Nigeria is another important subject for future research, as Papillon (2012) has pointed out in his observation of the ambiguity surrounding Canada's responsibilities toward Aboriginal peoples: "Canadian federalism has performed rather poorly, as the specific responsibilities and obligations of the federal and provincial governments often remain unclear." In Nigeria, responsibility over local communities falls primarily to the state and local governments, while control over resources is transferred to both state and local governments, leaving nothing for these communities. What non-federal factors account for conflict dynamics, and how do these factors reinforce or undermine federal institutional rules? How do government practices and responses to claims and mobilizations by indigenous communities shape conflict, and how do these communities interact with federal constitutional structures? Future comparative studies of federalism and oil can examine the important questions of indigenous communities across federations. Furthermore, the comparative cases

of indigenous communities with different experiences of colonialism, particularly settler and non-settler colonies, are particularly relevant in future studies of the influence of federalism on oil conflict from a historical institutionalist perspective. For instance, Canada is a settler society, where Nigeria is a non-settler colony. As Acemoglu, Johnson and Robinson (2001, 2012a, 2012b), have pointed out in their argument that the colonial origins of development matter in structuring institutional variations, it is expected that these historical origins and legacies would affect indigenous oil-bearing communities' mobilization over oil. In Canada, mobilization has been largely peaceful, but in Nigeria, violence has occurred. What is the role of the historical legacies of federal institutions in these dynamics? In Canada, the incremental victories of indigenous communities in the court regarding resource rights, such as the "duty to consult," have made First Nations important veto players (Indigenous and Northern Affairs Canada 2011). These victories have given them hope that, with time and through litigations, changes to existing institutional rules that disadvantage First Nations would be incrementally removed. In Nigeria, on the other hand, there seems to be no hope for the oil-bearing communities in the court, a fact demonstrated by the recourse of activists to courts in foreign countries in trying to hold oil corporations accountable for their actions. Although violent protests, such as the burning of six cars during an aboriginal demonstration in New Brunswick in 2013 (Galloway and Taber 2013), have occurred in Canada, they are still relatively rare in comparison to the frequency of violent incidents in the Niger Delta. Comparative studies on the ways in which institutions such as federalism, the judiciary, and state practices structure the pressures from resource communities in federations are thus potentially fruitful subject areas.

A second promising line of future research is to explore the incentives provided for the federal institutional design over oil for the operation of oil companies. Given the different federal institutional arrangements over oil, whether centralized or decentralized, it would be interesting to investigate which arrangement is more amenable to peaceful relations between oil companies and governments or between these companies and resource communities. It would also be interesting to know the role of complementing institutions, such as the judiciary, in structuring such relationships, and how, generally, the interactions between institutions and these companies, governments and resource communities have changed over time.

The third possibility area for future research is the question over whether political parties exert important influences over oil conflict processes, and, more importantly, the mechanisms through which such influences take place. Political parties are key mechanisms that may potentially help facilitate stable intergovernmental bargaining in federations (Thorlakson 2012). Scholars such as Riker (1964), Linz and Stepan (1992), and Filippov et al. (2004), have all identified political parties as the most crucial mechanism by which constitutional bargaining in the formation (and evolution) of federations is achieved, given the primary role of political parties as the principal intermediary institutions through

which elite bargaining and negotiations take place. Filippov et al. (2004) have further argued that integrated political parties are conducive to encouraging federal stability because they align the interests of both central and regional politicians, and this symbiotic relationship induces recurrent patterns of incentives that ensure self-enforcing and self-sustainable federal institutions. However, while this is a compelling theoretical exposition, I did not examine the influence of this factor on oil conflict processes. This is because empirically, there seems to be no clear evidence of the stabilizing role of vertical party integration on oil in the study's cases. Though currently Nigeria officially operates on an integrated political party system, vertical partisan loyalty does not seem to have played a significant part in intergovernmental bargains over oil. While states in the Niger Delta, the oil-producing region have predominantly elected governors who share the same partisan label (the PDP) with the presidents in the five general elections conducted with the return to democracy in 1999 (uptil 2017), the region has witnessed destabilizing political mobilization over oil during these periods. Indeed, one of these conflicts over the location of oil wells (not discussed in this dissertation) not only led to open conflict between the governor of Rivers state, Rotimi Amaechi and President Goodluck Jonathan, both of the then-ruling PDP, but was cited by Amaechi as one of the reasons why he left the PDP for the opposition APC in the run up to the 2017 election. Unlike Nigeria, Canada has few integrated parties, the exception being the NDP (Young et al. 1996, 166). But even when parties seem to share similar partisan labels at both the provincial and federal levels, these parties have, generally, behaved differently when their interests diverge. One example relating to oil concerns the offshore oil-related equalization disagreements between provincial and federal governments that were respectively elected under the banners of the Progressive Conservative Party of Newfoundland and Labrador and its federal namesake, the Progressive Conservative Party of Canada (later the Conservative Party of Canada). This intergovernmental conflict over offshore oil which spanned over five decades, from the early 1960s into the Harper years, was characterized by shifting competitive and cooperative behaviors that reflected, not partisan loyalty, but strategic interests, with incentives for differentiation provided, as Cairns (1977) noted, by Canada's federal institutional design.

The Canadian case demonstrates that while political parties do matter in intergovernmental negotiations, their actions are driven largely by government self-interest and electoral consideration of politicians, rather than by simple partisan loyalty between federal and provincial levels of party organization. Cairns (1977, 175) observed this trend when he argued that "the circumstances in which provincial parties in power will support their federal counterparts almost entirely reflect strategic considerations." His position is supported by other Canadian scholars. For instance, Savoie (1992, 4) has argued that "when it comes to regional development policy, provincial premiers, no matter their political affiliation, stand where they sit."

It should be pointed out that this conventional perception of party politics in Canada is being challenged by scholars who argue that Canadian parties are more vertically linked than previous studies have acknowledged, emphasizing the role of diverse practices such as "shared activists (local party activists, party staff and party professionals) and technological expertise" during election campaigns which serve as "key integration link" between federal and provincial/local branches of parties (Esselment 2010, 871). Using an example of a multilateral agreement (Meech Lake Accord, 1987–1990) and a bilateral one (Child Care agreements, 2004–2005), Esselment (2013, 703) takes this argument further by insisting that vertical partisanship does matter at the more formal government level as it crucially influences "process of federal-state barraging" which she defines as "how an agreement is reached and whether it is kept" but that this variable does not influence the "substance of the agreements themselves." However, Esselment also acknowledged the fact that the vertical political party link may not have the same effects in all negotiations given that "different issues and sites of negotiations may affect the prevalence of partisanship, as might the country in which they occur" (Esselment 2013, 722). I take this perspective that the effects of specific factor may differ from one issue area to the other and argues that overall, regarding the oil issue area, vertical partisanship has not been a crucial variable that influenced federal-provincial/state bargaining over oil in Canada and Nigeria. In other words, while political parties "can and no doubt do exert important influences on interactions between federal and provincial wings [of parties] and on government-to-government dealings" (Smiley 1976, 103), my conclusion is that linkages between federal and state-level structures of political parties seem not to have played crucial roles in resolving conflict over oil in Nigeria, whose law provides for the emergence of integrative party organizations, or in Canada, which does not have such parties. Thus, even though political parties are differently designed in Canada and Nigeria, these cases seem not to vary with regard to the effects attributed to political parties. Future studies may therefore investigate the specific mechanisms through which political parties as representative institutions influence conflict over oil across different federations. Could this influence be through party ideologies or party leadership? What is the role of timing in bargaining dynamics over oil through political parties? In Nigeria, following a period of deterioriating conflict and insungency in the oil- producing region, the new government of President Umaru Yar'adua, elected under the same PDP as the outgoing President Obasanjo, negotiated an amnesty deal militants who turned in their arms and this ushered in a lull in open violent conflict in the region. In Canada, the new Progressive Conservative party government of Brian Mulroney negotiated accords in 1985 that repaired the sour relationship between oil-rich provinces in the West and Atlantic regions and the federal government during the premiership of Liberal Pierre Trudeau. To be sure, the coincidence that Premiers Lougheed of Alberta and Peckford of Newfoundland and Prime Minister Mulroney, all of them from the Progressive Conservative Party, signed an accord in the mid-1980s to resolve lingering oil conflicts following their stormy relationship with Liberal Trudeau may buttress assumption of an 'integrated' party structure in Canada that helps mediate conflict between orders of

governments. Yet, the fact that one of the periods of heightened conflict over offshore oil was with a Conservative government; Danny Williams insisting that Newfoundlanders vote "Anything But Conservative" in the federal election demonstrates that "membership in political parties carrying the same stripes federally and provincially is not a guarantee of positive intergovernmental relations" (Adam, Bergeron, and Bonnard 2015, 153). The Canadian and Nigerain examples therefore demonstrate the mixed and confounding roles of political parties on oil conflict. Further studies are therefore required to bring some clarity to the interaction between political parties and bargains over oil and how these bargaings impact and are structured by the federal institutional arena.

The fourth possibility for future research on the interconnections between federalism and oil conflict is the need for more theoretically guided comparative studies. Although previous scholarship on comparative federalism has largely overlooked the important topic of oil conflict in federations, there have been several comparative studies or case studies with comparative conclusions in this field. These include works comparing Canadian and Australian offshore mineral resources (Cullen 1990), revenue sharing in Canada and Australia (Eccleston and Woolley 2014), energy policy research in Canada and Germany with a tangential focus on oil (Doern and Turner 1985), as well as Anderson's collection of single-country case studies of oil management in 12 federations (Anderson 2012b). These studies have advanced knowledge of oil conflict dynamics in federations, but they are largely descriptive studies that lack an explicit theoretical focus. More theoretically driven research, such as this dissertation, would more clearly illustrate the processes and mechanisms at play in these conflicts, the interaction of these processes and mechanisms, and their persistence and change over time. Historically context-sensitive theories such as historical institutionalism, the basis for this study, may be useful in carrying out such future studies. The historical institutionalist framework has been applied to comparative studies in federations (see, for example, Benz and Broschek 2013; Broschek 2010; Lecours 2014), but with few execeptions, such as Béland and Lecours's research on equalization (2011), this eclectic theory has rarely been applied to studies of the interaction between oil and federalism. This is not surprising, as explicit comparative study of oil in federations themselves has been largely overlooked, as noted above. To provide different insights and further scrutinize the findings of this dissertation, future studies can apply historical institutionalism to other federations to examine whether and how historically constructed federal institutions shape contestations over natural resources. For instance, although there is no fast rule on the effects of origin on oil conflict, I have argued in this thesis that federal origin is relevant in order to understand the authority relationship and bargaining powers of governments concerning oil. For example, federations formed by the accretion of formerly relatively independent entities tend to decentralize powers over natural resources if those entities had previously held interests in those resources before joining the federation. Meanwhile, federations formed by disaggregation, and in which ownership and control of natural resources was already centralized prior to federalization, would tend to adopt a centralized structure. These differences in federal origins are further shaped by

critical junctures and political interests. How does federal origin influence earlier institutional rule and subsequent contestations over oil? The influence of federal origin has not yet attracted widespread attention in scholarship of federalism, particularly its role in the bargaining powers of governments that formed a federation, but references to this subject have been made in examinations of the motives for federalization, such as protecting against potential military threats (see Riker 1964), the change from unitary to federal states (Lecours 2014), and the continuing importance of historical origin in the management of contemporary federations (see Stephan 1999). The examples of Nigeria and Canada illustrate how constituent units contested for ownership and or revenues from offshore oil, with the federal government making concessions to littoral state governments, even though the nature of concession differs, reflecting pre-federal patterns of rules allocating authority and power that were reproduced during federalization. Future studies may focus on how federal origin shapes the subsequent bargaining power of governments.

The fifth promising area for future comparative studies of federalism and oil conflict is more cross-country comparisons that jettison the "silo mentality" that has hindered understanding of the influence of federal institutions, ideas, and practices across time and space. Future research may involve selection of cases based on different research designs. The research design for this project examined multinational federations with different institutional designs, which were at different maturation periods, and which have different democratic experiences, but which share the experience of conflict over oil. Future studies may use different combinations of the contextual properties of federations to better capture the influence of varieties of federalism on oil conflict. For example, such projects may examine multinational and homogeneous oil-rich federations with similar histories of authoritarian governments, such as Nigeria and Brazil, in order to more clearly delineate the impact of military reforms on oil management or the influence of ethnic diversity on oil conflict. Other projects may examine federations that share similar democratic experiences but are different in terms of ethnic diversity, such as Nigeria and Mexico.

A final potential area of future research on the nexus between oil and federalism conflict is the macroeconomic management of oil revenues through natural resource funds (NRFs). Existing literature has pointed out that a significant factor contributing to the resource curse is the mismanagement of resource revenues, especially during periods of booms (Kaufmann and Sachs 2014; Asfaha 2007), which renders resource-dependent countries and jurisdictions vulnerable when tackling the damaging effects of resource revenue volatility, such as ongoing decreases in oil prices. Some of the mechanisms by which poor management of windfall revenues contributes to the resource curse include expansion of current account expenditure, investment in hastily-conceived and ambitious but low-return projects, accumulation of foreign debts, and lack of incentives to build strong institutions, which in turn leads to weak transparency and accountability that contribute to the 'Dutch Disease' (Asfaha 2007).

NRFs have been identified as useful methods to avoid or mitigate the resource curse. De-linking government expenditures from volatile resource revenues by saving or investing windfalls in NRFs during prosperous times and drawing down those funds during downturns lowers the negative consequences of boom-and-bust cycles on macroeconomic performance and human development (SWF Institute 2013; Ashafa 2007). Saving or investing in these funds also promotes intergenerational equity, a critical consideration given the exhaustibility of natural resources (Lipschitz 2011). More than 30 new NRFs have been established since 2000, bringing the global total number of NRFs to more than 55 in "about 40 countries at the national and subnational levels" (Bauer 2014). However, although many countries or jurisdictions have established NRFs, their effectiveness varies (Kaufmann and Sachs 2014; Humphreys and Sandu 2007). In some countries, NRFs have reined in profligate spending, whereas in others, fiscal irresponsibility has continued (Humphreys and Sandu 2007). How do federal institutions and politics influence whether NRFs positively or negatively affect the management of natural resource revenues? Few studies have explored the institutional and political dynamics influencing the adoption, design, and implementation of NRFs (Humphreys and Sandu 2007). What is the influence of different institutions of government, particularly constitutional design over territorial sovereignty such as federalism, on the management of NRFs? The sound management of natural resource revenues allows countries to transform those revenues into developmental benefits and thus avoid the resource curse (Kaufmann and Sachs 2014). With this in mind, the limited examination of the institutional-political underpinnings of NRFs has in turn limited our understanding of the different paths followed by resource-rich countries. Future research can therefore examine the incentives provided by federal constitutional design, normative ideas of federalism, and the politics of federalism and contingency, especially fluctuations of oil prices and government turnover on savings of oil revenues for rainy days.

Canada and Nigeria provide some tentative lessons in this regard, even though this study did not examine this topic. For instance, awash with newfound wealth and budget surpluses arising from increased oil prices during the booms of the 1970s and 1980s, the government of Alberta under Peter Lougheed engaged in dramatic province-building efforts, reflected in the establishment of the Heritage Fund. In Nigeria, in order to avoid past experiences of wasting windfall revenues during oil booms, the government of Olusegun Obasanjo created an entirely new account, the Excess Crude Account (ECA), in 2004, with the aim of saving excess oil receipts above the budgeted oil price. Obasanjo created this account single-handedly, without the consent of the governors or the National Assembly. Pierson (1999) notes that federalism which divides sovereignty constitutionally between at least two orders of government "generate[s] predictable policymaking dilemmas associated with shared decision-making" (499). How does the collective action problem to which policy changes and reforms in federations are vulnerable (Wibbels 2005) affect the performance of oil-related NRFs in these federations? What is the role of the specific federal design—for example, the fact that Alberta owns the Heritage Fund while the ECA and the National Sovereign Wealth Fund (NSWF) which holds some of the previous funds in the ECA

are owned by the federal and state governments in Nigeria—in shaping the contestations and politics over those funds? How can we explain changes in the performance of these funds over time? How have NRFs evolved over time, and what is the influence of temporal processes as shaped by each of these federations on the effectiveness of these funds? NRFs are important not only to protect against revenue volatility, but also to diversify from the oil sector. Because of this importance, the need for empirically-based in-depth comparative studies of oil-based NRFs in federations is more urgent than ever, in order to better manage commodity boom-and-bust cycles. The painful negative effects of ongoing oil price slumps on economies and livelihoods in many resource-rich jurisdictions poignantly underscores this significance.

9.4. Conclusion

This thesis has sought to examine how federalism shapes conflict over oil between levels of government in Canada and Nigeria. It uses the diverse case selection technique, primary and secondary data sources, and the theoretical-analytical framework of historical institutionalism to develop unique insights into the complex interaction between federalism, oil conflict, and conflict management. The dissertation demonstrates how conflict over oil in these federations has been primarily shaped by federal institutional rules, specifically formal institutional-constitutional design allocating competency over oil, and the informal institutions relating to normative ideas about federalism and federal community. The dissertation underscores how federal institutional rules interact with the configuration of economic, social and political structures in the broader polity. The dissertation shows that ultimately, conflicts over oil were generated by the interaction of this constellation of institutions operating within specific temporal dynamics, including federal origin and formative moment institutional choices, sequence/timing of federal rule creation vis-à-vis the development of the oil industry, contingency events, critical junctures and path-dependent trajectories.

The dissertation also demonstrates the mutually constitutive interaction between oil conflict and centralization/decentralization dynamics in these two federations. On the one hand, federal institutional rules over oil, which may be either decentralized or centralized, primarily structure oil conflict by providing the arena within which conflict takes place, the formal rules that shape such conflicts, and the ideational frame with which to interpret these rules. On the other, conflicts over these institutions, and the resolution of these conflicts, have also played crucial roles in shaping particular federal balances. Specifically, contestations over oil have contributed to pushing Canada and Nigeria towards paths that deviated from the broader centralized and decentralized federal institutional designs established at each respective country's federalization. The role of oil is arguably more crucial in this regard in Nigeria than in Canada, since the federation as a whole is dependent on this resource.

The dissertation also underscores the benefits of studying "how programs in different policy domains evolve and prove more susceptible or resilient to change as they mature" (Béland and Waddan 2017, 86) rather than "a simple, catch-all explanation is simply too broad and general to account for what are in fact highly specific and contingent historical and policy developments" (Béland and Waddan 2017, 84). This understanding aligns with the position of scholars on American Political Development (APD) who emphasize the need to examine institutional rules at multiple levels, since different institutional orders not only emerge from different historical processes but also contain incongruities, contradictions, and frictions that generate conflict (Lieberman 2002; Orren and Skowronek 2004). The different institutional and conflict dynamics between offshore and onshore sub-policy areas indicate how institutional rules and ensuing conflicts, even within the same broad oil policy field, differ. Because of this, lumping these different authority patterns and transformations into a single story may occlude our understanding of the divergent yet interlocking finegrained mechanisms of institutional emergence, continuity and change, and conflict that attend these processes.

The dissertation suggests that applying historical institutionalism to the study of oil conflicts in federations offers important contributions towards extending the research frontiers of comparative federalism and conflict studies in general. Historical institutionalism provides unique insights on the exploration and explication of conflict processes over time. Much of the literature on conflict considers it a matter of outcome, with broad dichotomies between violent and non-violent conflicts. Such a conception of conflict runs the risk of obscuring many of the finer and subtle processes of conflict. Historical institutionalism redirects our attention from this static view of conflict to a dynamic view that evolves over time, even though it exhibits stable path-dependent trajectories rather than static ones. In turn, by providing a systematic theory-driven comparative examination of oil conflict within the context of federal dynamics or relations, this study contributes to bridging one of the key research gaps in comparative federalism: the paucity of detailed comparative research on the longer-term political and economic trends in federal systems" (Eccleston, Hortle, and Krever 2017, 4). This paucity, as stated above, is starker regarding the oil policy field.

Finally, historical institutionalism has provided a tool kit to explain the endogenous sources of change relating to decentralization/centralization rule configurations over oil and the patterns of conflict and conflict settlements that arise. An emphasis on endogenous sources of conflict and shared norms in conflict resolution across diverse federations in turn points to the transformative potentials of institutions that interest historical institutionalists (Capoccia 2016). These endogenous sources of change include ambiguities in institutional rule, conflicting ideas about federalism and federal communities, and tension between the ideational and structural dimensions of institutions. These sources provide opportunities for "political contestation within and over institutional rules" that lead to "bounded, incremental, but potentially transformative changes" (Thelen 2010, 57). To be sure, such

sources of change do not preclude the salient roles of the social, economic, and political structures in the polity within which federalism is embedded, nor the influence of historical contingencies, critical junctures, and path dependence on conflict dynamics. However, the dissertation underscores the fact that although these exogenous influences condition conflict dynamics in important ways, they are, in the final analysis, structured by federal relations or the contestations over historically constructed federal rules allocating competencies over oil, or non-renewable natural resources in general, and their embodied normative ideas about federalism and federal community.

BIBLIOGRAPHY

Abdallah, Nuruddeen, and Daniel Adugbo. 2016. "Nigeria Loses N1.1tr to Militant Attacks." *Daily Trust* (Abuja), August 29. www.dailytrust.com.ng/news/general/nigeria-loses-n1-1tr-to-militant-attacks/160529.html

Aboriginal Affairs and Northern Development Canada. 1995. *The Government of Canada's Approach to Implementation of the Inherent Right and the Negotiation of Aboriginal Self-Government*. http://www.aadnc-aandc.gc.ca/eng/

Acemoglu, Daron, Simon Johnson, and James Robinson. 2001. "The Colonial Origins of Comparative Development: An Empirical Investigation." *American Economic Review* 91 (5): 1369-1401.

Acemoglu, Daron, and Robinson, James A. 2012a. *Why Nations Fail: The Origins of Power, Prosperity and Poverty*. New York: Crown Business.

Acemoglu, Daron, Simon Johnson, and James Robinson. 2012b. "The Colonial Origins of Comparative Development." *American Economic Review* 102 (6): 3077-3110.

Adam, Marc-Antoine, Josee Bergeron, and Marianne Bonnard. 2015. "Intergovernmental Relations in Canada: Competing Visions and Diverse Dynamics." In *Intergovernmental Relations in Federal Systems: Comparative Structures and Dynamics*, edited by Johanne Poirier, Cheryl Saunders, and John Kincaid, 174-205. Oxford: Oxford University Press.

Adamolekun, Ladipo, and Bamidele Ayo. 1989. "The Evolution of the Nigerian Federal Administration System" *Publius: The Journal of Federalism* 19 (1): 157-176.

Adamolekun, Ladipo. 2005. "The Nigerian Federalism at the Crossroads: The Way Forward." *The Journal of Federalism* 35 (3): 383-405.

Adamson, Agar. 1987. "Nova Scotia: Optimism in Spite of it All." In *Canada: The State of the Federation 1986*, edited by Peter Leslie, 45-64. Kingston, Ontario: Institute of Intergovernmental Relations, Queen's University.

Adamu, Abdullahi. 2005. "True Federalism in 21st Century Nigeria." http://www.abdullahiadamu.net/speeches/10628142731.html.

Adedeji, Adebayo. 1969. *Nigeria Federal Finance: Its Development, Problems and Prospects*. London, England: Hutchinson Educational.

Adeney, Katharine. 2007. *Federalism and Ethnic Conflict Regulation in India and Pakistan*. New York: Palgrave Macmillan.

Adeniyi, Olusegun. 2002. "Nigeria: Who Controls the Resources." *ThisDay,* April 8. allafrica.com/stories/200204090067.html

Adugbo, Daniel. 2016. "UK to Receive First Cargo of Lagos Oil in September." *Daily Trust* (Abuja), August 26. www.dailytrust.com.ng/news/business/uk-to-receive-first-cargo-of-lagos-oil-in-september/160289.html

Adunbi, Omolade. 2015. *Oil Wealth and Insurgency in Nigeria*. Bloomington & Indianapolis: Indiana University Press.

Agranoff, Robert. 2010. *Local Governments and Their Intergovernmental Networks in Federalizing Spain*. Montreal & Kingston: McGill-Queen's University Press.

Ahmad, Ehtisham, and Eric Mottu. 2003. “Oil Revenue Assignments: Country Experiences and Issues.” In *Fiscal Policy Formulation and Implementation in Oil-Producing Countries*, edited by Jeffrey Davis, Annalisa Fedelino, and Rolando Ossowski, 216-242. Washington DC: IMF.

Ahmad, Ehtisham, and Raju Singh. 2003. “Political Economy of Oil - Revenue Sharing in a Developing Country Illustrations from Nigeria.” IMF Working Paper No. 03/16.

Ahmed, Gulfaraz. 2012. “Pakistan.” In *Oil and Gas in Federal Systems*, edited by George Anderson, 257-284. Don Mills, Ontario: Oxford University Press.

Aiyede, Emmanuel. 2002. Decentralizing Public Sector Collective Bargaining and the Contradictions of Federal Practice in Nigeria. *African Study Monographs* 23(1): 11-29.

Ajayi, Ade, and Smith, Robert. 1964. *Yoruba Warfare in the Nineteenth Century*. Cambridge.

Ajayi, Rotimi, Emma Amaize, and Emma Aziken. 2002. “Why I Won’t Sign Oil Dichotomy Bill – Obasanjo.” *Vanguard*. December 12. allafrica.com/stories/200212130163.html

Ako, Rhuks. 2011. “The Struggle for Resource Control and Violence in the Niger Delta.” In *Oil and Insurgency in the Niger Delta: Managing the Complex Politics of Metro-Violence*, edited by Cyril Obi and Siri Aas Rustad, 42-54. London: Zed Books Ltd.

Alabi, Julius, Chido Okafor, and Aniekan Bassey. 2004. “Oil States Laud Signing of onshore, Offshore Bill.” *The Guardian*. February 19. nigeriavillagesquare.com/forum/threads/onshore-offshore-dichotomy-abolished.774/

Alberta Community Development/Turner Valley Historical Society. 1993. “Turner Valley Driving Tour.” culture.alberta.ca/heritage-and-museums/resources/historical-walking-and-driving-tours/docs/Tour-Turner-Valley.pdf

Alberta Culture and Tourism. 2017a. http://history.alberta.ca/energyheritage/sands/unlocking-thepotential/abasand/default.aspx

Alberta Culture and Tourism. 2017b. Oil Sands. history.alberta.ca/energyheritage/sands/unlockingthe-potential/abasand/the-federal-government-at-abasand.aspx#page-2

Alberta Culture and Tourism. 2017c. http://history.alberta.ca/energyheritage/sands/unlocking-thepotential/the-federal-government/paving.aspx

Alberta Culture and Tourism. 2017d. Conventional Oil. history.alberta.ca/energyheritage/oil/theleduc-era-1947-to-1970s/legacy-of-the-leduc-era.aspx

Alberta Energy/Price Waterhouse Coopers. 2009. “Alberta’s Royalty System–Jurisdictional Comparison.” June. www.energy.alberta.ca/Org/pdfs/Royalty_Jurisdiction.pdf

Alberta Energy. 2011. “Oil and Gas Fiscal Regimes of the Western Canadian Provinces and Territories.” www.energy.alberta.ca/Tenure/pdfs/FISREG.pdf

Alberta Energy. 2017. “Energy's History in Alberta.” www.energy.alberta.ca/About_Us/1133.asp

Alberta Government. 2012. “Highlights of the Alberta Economy 2012.” https://www.albertacanada.com/SP-EH_highlightsABEconomy.pdf.

Alberta Government. 2017. “Highlight of the Alberta Economy 2017.” www.albertacanada.com/files/albertacanada/SP-EH_highlightsABEconomyPresentation.pdf

Alberta Royalty Review Panel. 2007. “Report of the Alberta Royalty Review Panel.” www.energy.alberta.ca/Org/pdfs/RoyaltyReviewPanelfinal_report.pdf

Alemán, Eduardo, and Daniel Treisman. 2005. “Fiscal Politics in ‘Ethnically Mined,’ Developing, Federal States: Central Strategies and Secessionist Violence.” In *Sustainable Peace: Power and Democracy after Civil Wars*, edited Philip G. Roeder and Donald Rothchild, 173-216. Ithaca: Cornell University Press.

Aluko, Mobolaji. 2002. “Before Obasanjo Signs the Offshore/Onshore Abrogation Bill.” December 12 https://www.dawodu.com/aluko26.htm

Amable, Bruno. 2016. “Institutional Complementarities in the Dynamic Comparative Analysis of Capitalism." *Journal of Institutional Economics* 12 (1): 79-103.

Amaize, Emma. 2002a. “Nigeria: Onshore/Offshore: S-South, S-East PDP Govs. Set to Ally On Presidency.” *Vanguard*. December 17. http://allafrica.com/stories/200212170378.html

Amaize, Emma. 2002b. “Nigeria: Niger Delta Leaders Vow to Block Obasanjo's Re-election.” *Vanguard*. December 22. allafrica.com/stories/200212230094.html

Amaize, Emma. 2003. “Nigeria: Oil Bill: South-South Group Rejects Obasanjo's Amendment.” *Vanguard*. February 21. allafrica.com/stories/200302210608.html

Amaize, Emma, Habib Yakoob, George Onah, and Osaro Okhomina. 2004. “South-South Leaders Fault 19 Northern States, Others on Oil Lawsuit.” Vanguard. August 18. allafrica.com/stories/200408161137.html

American Oil & Gas Historical Society. 2006. “Early Offshore Exploration.” *The Petroleum Age* 3 (3): 8-9.

Aminu, Adedayo. 2004. “Nigeria: Oil Dichotomy Abrogation Bill: Attah Leads Akwa Ibomites to Celebrate God.” Vanguard. March 8. http://allafrica.com/stories/200403081069.html

Amoretti, Ugo. 2004. “Introduction: Federalism and Territorial Cleavages.” In *Federalism and Territorial Cleavages*, edited by Ugo Amoretti and Nancy Bermeo, 1-26. Baltimore and London: The Johns Hopkins University Press.

Amoretti, Ugo, and Nancy Bermeo. eds. 2004. *Federalism and Territorial Cleavages*. Baltimore and London: The Johns Hopkins University Press.

Anderson, George. 2007. “Nigerian Fiscal Federalism Seen from a Comparative Perspective.” Note for Address to Governors’ Forum. Abuja. October 28. forumfed.org/pubs/GA_GovernorsForum_NigeriaOct07.pdf

Anderson, George. 2010. *Fiscal Federalism: A Comparative Introduction*. Don Mills, Ontario: Oxford University Press.

Anderson, George. 2012a. “Introduction.” In *Oil and Gas in Federal Systems*, edited by George Anderson, 1-6. Don Mills, Ontario: Oxford University Press.

Anderson, George. 2012b. “Reflections on Oil and Gas in Federal Systems.” In *Oil and Gas in Federal Systems*, edited by George Anderson, 371408. Don Mills, Ontario: Oxford University Press.

Anderson, Liam. 2016. “Ethnofederalism and the Management of Ethnic Conflict: Assessing the Alternatives.” *Publius: The Journal of Federalism*, 46 (1): 1–24.

Andoor, Donald. 2003. “Nigeria: Obasanjo in Rivers, Opens Up On Resource Control.” *ThisDay*. 19

February. http://allafrica.com.login.ezproxy.library.ualberta.ca/stories/200302190425.html

Anichukwu, Uche. 2012. “Breaking The Curse Of 'Feeding Bottle Federalism.’” Sahara Reporters. August 29. saharareporters.com/2012/08/29/breaking-curse-“feeding-bottle-federalism”

Armstrong, Christopher. 1981. *The Politics of Federalism: Ontario’s Relations with the Federal Government, 1867- 1942*. Toronto: Toronto University Press.

Asadurian, Tamar, Emmanuel Nnadozie, and Leonard Wantchekon. 2006. “Transfer Dependence and Regional Disparities in Nigerian Federalism.” In *Federalism and Economic Reform International Perspectives,* edited by Jessica Wallack and Thirukodikaval Srinivasan, 407-455. Cambridge: Cambridge University Press.

Asfaha, Samuel. 2007. “National Revenue Funds: Their Efficacy for Fiscal Stability and Inter-Generational Equity.” IISD. www.iisd.org/pdf/2007/trade_price_nat_rev_funds.pdf

Atlas, Terry. 1981. “Canada's Oil Policy Stirring up Business.” *Chicago Tribune*. June 7. archives.chicagotribune.com/1981/06/07/page/125/article/canadas-oil-policy-stirring-up-business

Attah, Victor. 2012. “Insights into Onshore-Offshore Dichotomy, by Obong Victor Attah.” *Vanguard*. December 18. http://www.vanguardngr.com/2012/12/insights-into-onshore-offshore-dichotomy-by-obong-victor-attah/

Auty, Richard. 1993. *Sustaining Development in Mineral Economies: The Resource Curse Thesis*. London: Routledge.

Auty, Richard. 2008. “Political Economy of African Mineral Revenue Deployment: Angola, Botswana, Nigeria and Zambia Compared.” Real Instituto Elcano Working Paper. WP 28/2008.

Awa, Eme. 1964. *Federal Government in Nigeria*. California: University of California Press.

Ayoade, John. 1988. “Federalism in Nigeria: The Problem with the Solution.” Paper presented at the Faculty Lecture, Faculty of the Social Sciences, University of Ibadan. July 10.

Azar, Edward. 1985. “Protracted International Conflicts: Ten Propositions” *International Interactions: Empirical and Theoretical Research in International Relations* 12 (1): 59-70.

Aziken, Emmanuel. 2002. “Nigeria: Obasanjo Okays Onshore/Offshore Dichotomy Abrogation Bill.” Vanguard 18. allafrica.com/stories/200402180839.html

Azzi, Stephen. 2015. “Election 1988.” *Encyclopedia Canada*. www.thecanadianencyclopedia.ca/en/article/election-1988-feature/

Babad, Michael. 2014. “The Canadian Dollar, Oil and 'Canada's Dutch Disease.” *The Globe and Mail*. September 10. https://www.theglobeandmail.com/report-on-business/top-business-stories/the-canadian-dollar-oil-and-canadas-dutch-disease/article20509692/

Bakke, Kristin. 2015. *Decentralization and Intrastate Struggles: Chechnya, Punjab, and Québec*. Cambridge: Cambridge University Press.

Bakke, Kristin, and Eric Wibbels. 2006. “Diversity, Disparity, and Civil Conflict in Federal States.” *World Politics* 59 (October): 1–50.

Bakx, Kyle. 2016. “Alberta Royalty Review Recommends Few Changes for Oil and Gas Industry.” *CBC News*. January 29. www.cbc.ca/news/canada/calgary/alberta-royalty-review-changes-1.3424556

Bamberg, James. 2000. *British Petroleum and Global Oil 1950-1975*. Cambridge: Cambridge University press.

Bannister, Jerry. 2003. "The Politics of Cultural Memory: Themes in the History of Newfoundland and Labrador in Canada, 1972-2003." Royal Commission on Renewing and Strengthening Our Place in Canada. www.exec.gov.nl.ca/royalcomm/research/pdf/Bannister.pdf

BBC News. 2016. "Nigeria's NNPC 'Failed to Pay' $16bn in Oil Revenues." BBC News. March 15. http://www.bbc.com/news/world-africa-35810599

Beauchamp, Kenneth, Michael Crommelin, and A.R. Thompson. 1973. "Jurisdictional Problems in Canada's Offshore." *Alberta Law Review* XI: 431- 470.

Beblawi, Hazem. 1987. "The Rentier State in the Arab World." In *The Rentier State*, edited by Hazem Beblawi and Giacomo Luciani, 63-82. London: Croom Helm.

Beck, Murray. 2006. "Representative Government." *Encyclopedia Canada*. www.thecanadianencyclopedia.ca/en/article/representative-government/

Bednar, Jenna. 2013. "Constitutional Change in Federations: The Role of Complementary Institutions." In *Federal Dynamics: Continuity, Change and Varieties of Federalism*, edited by Arthur Benz and Jörg Broschek, 277-297. Oxford: Oxford University Press.

Beesley, Alan. 1972a. "Notes for Use in Canadian Bar Association Panel Discussion on 'Offshore Mineral Rights Considered from an International and Constitutional Point of Law.'" www.library.ubc.ca/archives/pdfs/beesley/Beesley_2_8_8.pdf

Beesley, Alan. 1972b. "The Law of the Sea: Factors Behind Canada's Stance" *International Perspectives: A Journal of the Department of External Affairs* July-August: 28-35.

Béland, Daniel. 2005. "Ideas, Interests, and Institutions." In *New Institutionalism: Theory and Analysis*, edited by Andre□ Lecours, 29-50. Toronto: University of Toronto Press.

Béland, Daniel, and André Lecours. 2006. "Sub-state Nationalism and the Welfare state: Quebec and Canadian Federalism." *Nations and Nationalism* 12 (1): 77–96.

Béland, Daniel, and André Lecours. 2011. "The Ideational Dimension of Federalism: The 'Australian Model' and the Politics of Equalization in Canada." *Australian Journal of Political Science* 46(2): 199-212.

Béland, Daniel, and André Lecours. 2012. "Equalization at Arm's Length." Mowat Centre Fiscal Transfers Series. https://mowatcentre.ca/wp-content/uploads/publications/48_equalization_at_arms.pdf

Béland, Daniel, and André Lecours. 2014. "Accommodation and the Politics of Fiscal Equalization in Multinational States: The Case of Canada." *Nations and Nationalism* 20 (2): 337–354.

Béland, Daniel, and André Lecours. 2015. "Equalization and the Politics of Natural Resources: Balancing Provincial Autonomy and Territorial Solidarity." In *Canada: The State of the Federation 2012: Regions, Resources, and Resilience*, edited by Loleen Berdahl, Andre Juneau, and Carolyn Tuohy, 99-118. Montreal: McGill University Press.

Béland, Daniel, and André Lecours. 2016. "Ideas, Institutions and the Politics of Federalism and Territorial Redistribution." *Canadian Journal of Political Science* 49 (4): 681-701.

Béland, Daniel, and Robert Cox. 2011. “Introduction: ideas and Politics.” In *Ideas and Politics in Social Science Research,* edited by Daniel Béland and Robert Cox, 3-22. Oxford: Oxford University Press.

Béland, Daniel, and François Vergniolle de Chantal. 2004. “Fighting ‘Big Government’: Frames, Federalism, and Social Policy Reform in the United States.” *Canadian Journal of Sociology* 29 (2): 241-264.

Béland, Daniel, and Alex Waddan. 2017. “Why Are There No Universal Social Programs In The United States? A Historical Institutionalist Comparison with Canada.” *World Affairs* 180 (1): 64-92.

Béland, Daniel, et al. 2017. *Fiscal Federalism and Equalization Policy in Canada: Political and Economic Dimensions*. University of Toronto Press.

Bélanger, Claude. 2000. “Tremblay Report and Provincial Autonomy In the Duplessis Era (1956).” faculty.marianopolis.edu/c.belanger/quebechistory/readings/tremblay.htm

Bélanger, Claude. 2001. “The Maritime Provinces, the Maritime Rights’ Movements and Canadian Federalism.” faculty.marianopolis.edu/c.belanger/quebechistory/federal/maritime.pdf

Bélanger, Claude. 2004. Quebec and the Confederation project (1864-1867). http://faculty.marianopolis.edu/c.belanger/quebechistory/readings/queconf.htm

Benz, Arthur. 2013. “Dimensions and Dynamics of Federal Regimes.” In *Federal Dynamics: Continuity, Change, and Varieties of Federalism*, edited by Arthur Benz and Jörg Broschek. 70-92. Oxford: Oxford University Press.

Benz, Arthur, and Jörg Broschek. 2013a. “Federal Dynamics: Introduction.” In *Federal Dynamics: Continuity, Change, and Varieties of Federalism*, edited by Arthur Benz and Jörg Broschek. 1-26. Oxford: Oxford University Press.

Benz, Arthur, and Jörg Broschek. 2013b. “Conclusion: Theorizing Federal Dynamics.” In *Federal Dynamics: Continuity, Change, and Varieties of Federalism*, edited by Arthur Benz and Jörg Broschek. 366-387. Oxford: Oxford University Press.

Benz, Arthur, and Sabine Kropp. 2014. “Federalism in Democratic and Authoritarian Regimes: Compatibilities, Tensions, and Dynamics.” *Zeitschrift für Vergleichende Politikwissenschaft* 8 (1): 1–27.

Benz, Arthur, and Jared Sonnicksen. 2015. “Patterns of Federal Democracy: Tensions, Friction, or Balance Between Two Government Dimensions.” *European Political Science Review* https://doi.org/10.1017/S1755773915000259

Berdahl, Loleen, and Roger Gibbins. 2014. *Looking West: Regional Transformation and the Future of Canada*. Toronto: University of Toronto Press.

Bermeo, Nancy. 2002. “A New Look at Federalism: The Import of Institutions.” *Journal of Democracy* 13 (2): 96-110.

Bickerton, James. 2008. “Equalization, Regional Development, and Political Trust: The Section 36/Atlantic Accords Controversy.” *Constitutional Forum* 17 (1, 2 & 3): 99-111.

Binnion, Michael. 2013. “Transfer Payments: Quebec Resource Development Penalized.” *Huffington Post*. April 17. www.huffingtonpost.ca/michael-binnion/quebec-transfer-payments-resource-developments_b_3054514.html

Birch, A.H. 1966. “Approaches to the Study of Federalism” *Political Studies* XIV(1): 15-33.

Bird, Richard, and Robert D. Ebel. 2007. "Subsidiarity, Solidarity and Asymmetry: Aspects of the Problem." In *Fiscal Fragmentation in Decentralized Countries: Subsidiarity, Solidarity and Asymmetry*, edited by Richard Bird and Robert Ebel, 3-25. Cheltenham, Edward Elgar, 2007

Black, Edwin R. and Alan C. Cairns. 1966. “A Different Perspective on Canadian Federalism.” *Canadian Public Administration* 9 (1): 27–44

Blake, Raymond. 2015. *Lions or Jellyfish: Newfoundland-Ottawa Relations since 1957*. Toronto: University of Toronto Press.

Blakeney, Allan. 2008. *An Honourable Calling: Political Memoirs*. Toronto: University of Toronto Press.

Blatchford, Andy. 2015. “Quebec to get $10B of $18B in Federal Equalization Payments.” CTV News Montreal. December 22. montreal.ctvnews.ca/quebec-to-get-10b-of-18b-in-federal-equalization-payments-1.2709669

Blindenbacher, Raoul, and Ronald Watts. 2003. “Federalism in a Changing World: Conceptual Framework for the Conference.” In *Federalism in A Changing World: Learning From Each Other*, edited by Raoul Blindenbacher and Arnold Koller, 7-25. Montreal: McGill-Queens University Press.

Blyth, Mark. 2003. “Structures Do Not Come with an Instruction Sheet: Interests, Ideas and Progress in Political Science.” *Perspectives on Politics* 1(4): 695-706.

Boadway, Robin. 2007. “Natural Resource Shocks and the Federal System: Boon and Curse?” Proceeding from the Conference on Fiscal Federalism and the Future of Canada September 28-29, 2006. http://qed.econ.queensu.ca/pub/faculty/boadway/boadway-resources.pdf

Boadway, Robin. 2009. “Redistribution versus Risk-Sharing in a Federation: More than Semantics: Comment on Jacques H. Drèze, ‘On the Interaction between Subsidiarity and Interpersonal Solidarity.’” In *Rethinking Belgium’s Institutions in the European Context*, edited by André Decoster, 19-20. Re-Bel e-book. http://www.rethinkingbelgium.eu/rebel-initiative-ebooks.

Boadway, Robin, Serge Coulombe, and Jean-François Tremblay. 2012. “The Dutch Disease and the Canadian Economy: Challenges for Policy-Makers.” In *Thinking Outside the Box: Innovation in Policy Ideas*, edited by Keith Banting, Richard Chaykowski, and Steven Lehrer, 31-66. Montreal: McGill-Queens University Press.

Bolleyer, Nicole. 2006. “Intergovernmental Arrangements in Spanish and Swiss Federalism: The Impact of Power-Concentrating and Power-Sharing Executives on Intergovernmental Institutionalization.” *Journal of Regional & Federal Studies* 16 (4): 385-408.

Bolleyer, Nicole. 2009. *Intergovernmental Cooperation: Rational Choices in Federal Systems and Beyond*. Oxford: Oxford University Press.

Bolleyer, Nicole, and Lori Thorlakson. 2012. “Beyond Decentralization—The Comparative Study of Interdependence in Federal Systems” *Publius: The Journal of Federalism* 42 (4): 566-591.

Brancati, Dawn. 2009. *Design over Conflict: Managing Ethnic Conflict and Secessionism Through Decentralization*. Oxford: Oxford University Press.

Brautigam, Deborah, Odd-Helge Fjeldstad, and Mick Moore. 2008. *Taxation and State-building in Developing Countries: Capacity and Consent*. Cambridge: Cambridge University Press.

Breen, David. 1993. *Alberta's Petroleum Industry and the Conservation Board*. Edmonton: University of Alberta Press.

Breton, Albert. 2015. "Toward a Positive Theory of Federalism and Political Decentralization." In *Handbook of Multilevel Finance*, edited by Ehtisham Ahmad and Giorgio Brosio, 66-84. Chetenham,UK: Edward Elgar.

Brodie, Janine. 1997. "The New Political Economy of Regions." In *Understanding Canada: Building on the New Canadian Political Economy, edited by Wallace Clement*, 240-261. McGill-Queen's Press.

Broschek, Jo□rg. 2010. "Federalism and Political Change: Canada and Germany in Historical-Institutionalist Perspective" *Canadian Journal of Political Science* 43 (1): 1–24.

Broschek, Jörg. 2011. "Conceptualizing and Theorizing Constitutional Change in Federal Systems: Insights from Historical Institutionalism." *Federal & Regional Studies* 21 (4-5): 539-559.

Broschek, Jörg. 2012a. "Historical Institutionalism and the Varieties of Federalism in Germany and Canada." *Publius: The Journal of Federalism* 42 (4): 662–68.

Broschek, Jörg. 2012b. "Authority Migration in Systems of Multi-Level Governance: North America and Europe in Historical-Institutionalist Perspective." Paper prepared for the Third International Conference on Democracy as Idea and Practice. Oslo, January 12-13. www.uio.no/english/research/interfaculty-research-areas/democracy/news-and-events/events/conferences/2012/papers-2012/Broschek-wshop3.pdf

Broschek, Jörg. 2012c. "Historical Institutionalism and Comparative Federalism." *World Political Science Review* 2012; 8(1): 101–128.

Broschek, Jörg. 2015. "Pathways of Federal Reform: Australia, Canada, Germany, and Switzerland." *Publius: The Journal of Federalism* 45 (1): 51–76.

Brouillet, Eugénie. 2017. "The Supreme Court of Canada: The Concept of Cooperative Federalism and Its Effect on the Balance of Power." In *Courts in Federal Countries: Federalists or Unitarists?*, edited by Nicholas Theodore Aroney and John Kincaid, 135-164. Toronto: University of Toronto Press.

Brownsey, Keith. 2003. "The Best of Times? Petroleum Politics in Canada." Paper presented to the Annual Meeting of the Canadian Political Science Association. Halifax. May. https://www.cpsa-acsp.ca/paper-2003/brownsey.pdf

Bunce, Valerie. 2007. "Minority Politics in Ethnofederal States: Cooperation, Autonomy or Secession?" Einaudi Center for International Studies, Cornell University, Working Paper Series 08-07. July.

Burgess, Michael. 2006. *Comparative Federalism: Theory and Practice*. Abingdon, Oxon: Routledge.

Burgess, Michael. 2012. *In Search of the Federal Spirit – New Theoretical and Empirical Perspectives in Comparative Federalism*. Oxford: Oxford University Press.

Burr, Christina. 2006. *Canada's Victorian Oil Town: The Transformation of Petrolia from Resource Town into a Victorian Community*. Montreal & Kingston: McGill-Queen's University Press.

Cairns, Alan. 1971. "The Judicial Committee and its Critics." Canadian Journal of Political Science 4: 301-345.

Cairns, Alan. 1977. “The Governments and Societies of Canadian Federalism.” *Canadian Journal of Political Science* 10 (4): 695-725.

Cairns, Alan. 1986. “The Embedded State: State-Society Relations in Canada.” In *State and Society: Canada in Comparative Perspective*, ed. K. Banting. Toronto: University of Toronto Press.

Cairns, Robert. 1987. “An Economic Assessment of the Resource Amendment.” *Canadian Public Policy* 13 (4): 502-514.

Cairns, Robert. 1992. “Natural Resources and Canadian Federalism: Decentralization, Recurring Conflict, and Resolution.” *Publius: The Journal of Federalism* 22 (1): 55-70.

Cairns, Robert, Marsha Chandle, and William Moull. 1985. “The Resource Amendment (Section 92A) and the Political Economy of Canadian Federalism." *Osgoode Hall Law Journal* 23 (2): 253-274.

Cameron, David. 2001. “The Structures of Intergovernmental Relations.” *International Social Science Review* 53 (167): 121-127.

Cameron, David, and Richard Simeon. 2000. “Intergovernmental Relations and Democratic Citizenship.” In *Governance in the Twenty-first Century: Revitalizing the Public Service*, edited by Guy Peters and Donald Savoie, 58-118. Montreal: McGill-Queen’s University Press.

Campbell, John. 2004. *Institutional Change and Globalization*. Princeton, NJ: Princeton University Press.

Campbell, John. 2011. *Nigeria: Dancing on the Brink*. Lanham: Rowman & Littlefield Publishers Inc.

Campbell, Marcia. 2003. “Intractable Conflict.” In *The Promise and Performance of Environmental Conflict Resolution* edited by Rosemary O’Leary, Lisa B. Bingham, 90-130. Washington DC.: Resources for the Future.

Canada-Nova Scotia Offshore Petroleum Board. n.d. “Exploration History.” www.cnsopb.ns.ca/geoscience/geoscience-overview/exploration-history

Canadian Association of Petroleum Producers (CAPP). 2014. “Industry Across Canada.” http://www.capp.ca/canadian-oil-and-natural-gas/industry-across-canada

Canadian Centre for Energy Information. 2004. “Evolution of Canada's Oil and Gas Industry.” www.energybc.ca/cache/oil/www.centreforenergy.com/shopping/uploads/122.pdf

Canadian Press. 2012b. “Former Alberta Premier Peter Lougheed Dies.” September 13. www.cp24.com/former-alberta-premier-peter-lougheed-dies-1.955408.

Caplan, Neil. 1968. “Legal Issues of the Offshore Mineral Rights Dispute in Canada.” *McGill Law Journal* 14 (3): 475-493.

Caplan, Neil. 1969. “Some Factors Affecting the Resolution of a Federal-Provincial Conflict” *Canadian Journal of Political Science* 2 (2): 173-186.

Capoccia, Giovanni. 2015. “Critical junctures and Institutional Change.” In *Advances in Comparative Historical Analysis*, edited by James Mahoney and Kathleen Thelen, 147-179. Cambridge: Cambridge University Press.

Capoccia, Giovianni. 2016. “When Do Institutions ‘Bite’? Historical Institutionalism and the Politics of Institutional Change.” *Comparative Political Studies* 49 (8): 1095–1127.

Capoccia, Giovanni, and Daniel Kelemen. 2006. “The Study of Critical Junctures in Historical Institutionalism.” The Committee on Concepts and Methods. Working Paper Series No. 10. December. www.concepts-methods.org/Files/WorkingPaper/PM%2010%20Capoccia%20Kelemen.pdf

Capoccia, Giovanni, and Daniel Kelemen. 2007. “The Study of Critical Junctures: Theory, Narrative, and Counterfactuals in Historical Institutionalism.” *World Politics* 59 (3): 341-369.

Careless, James. 2003. “Brown, George.” In Dictionary of Canadian Biography [vol. 10]. University of Toronto / Université Laval. http://www.biographi.ca/en/bio/brown_george_10E.html.

Careless, James. 2006. "Responsible Government." www.thecanadianencyclopedia.ca/en/article/responsible-government/

Careless, James. 2008. “George Brown.” www.thecanadianencyclopedia.ca/en/article/george-brown/

Carlyle, Ryan. 2013. “What Are The Top Five Facts Everyone Should Know About Oil Exploration.” April 3. www.forbes.com/sites/quora/2013/04/03/what-are-the-top-five-facts-everyone-should-know-about-oil-exploration/

Carney, Mark. 2012. “Dutch Disease.” Address presented to Spruce Meadows RoundTable, Calgary, Alberta. September 7. http://www.bankofcanada.ca/2012/09/speeches/dutch-disease/

Carter, Angela, and Anna Zalik. 2016. “Fossil Capitalism and the Rentier State: Towards a Political Economy of Alberta's Oil Economy.” In *First World Petro-Politics: The Political Ecology and Governance of Alberta*, edited by Laurie E. Adkin, 51-77. Toronto: University of Toronto Press.

Cattaneo, Claudia. 2016. “Alberta Completes its Energy U-Turn with New Royalty Incentives to Encourage Drilling.” *Financial Post*. July 11. business.financialpost.com/news/energy/alberta-completes-its-energy-u-turn-with-new-royalty-incentives-for-drilling

CBC News. 2010. “Atlantic Accord 25th Anniversary Celebrated.” February 12. www.cbc.ca/news/canada/newfoundland-labrador/atlantic-accord-25th-anniversary-celebrated-1.932136

CBC News. 2016. “Energy East Pipeline Rejected by Aboriginal Group.” February 9. www.cbc.ca/news/canada/new-brunswick/energy-east-wolastoq-pipeline-1.3438535.

CBC News. 2016. Alberta announces $500M royalty credit program to build petrochemical plants. February 01. www.cbc.ca/news/canada/edmonton/alberta-announces-500m-royalty-credit-program-to-build-petrochemical-plants-1.3428902

CBC. 1979. “Joe Clark’s Government Falls.” *CBC Digital Archives*. www.cbc.ca/archives/entry/1979-joe-clarks-government-falls

CBC. 1988. “Free Trade Agreement Signed.” *CBC Digital Archives*. www.cbc.ca/archives/entry/1988-free-trade-agreement-signed

Central Intelligence Agency (CIA). 2017. “The World Factbook: Nigeria.” www.cia.gov/library/publications/the-world-factbook/geos/ni.html

Chastko, Paul. 2004. *Developing Alberta’s Oil Sands: From Karl Clark to Kyoto*. Calgary: University of Calgary Press.

Choudhry, Sujit. 2008. “Introduction: Integration, Accommodation and the Agenda of Comparative Constitutional Law.” In *Constitutional Design for Divided Societies: Integration or Accommodation?* edited by Sujit Choudhry, 3-40. Oxford: Oxford University Press.

Clancy, Peter. 2007. “Offshore Petroleum Politics: A Changing Frontier in a Global System.” *Policy and Society* 26 (1): 113-134.

Clancy, Peter. 2011. *Offshore Petroleum Politics: Regulation and Risk in the Scotian Basin*. Vancouver: UBC Press.

Clarke, Ashley. 2012. “Atlantic Canada’s Offshore Fields.” *Natural Resources Magazine*, March/April. http://www.naturalresourcesmagazine.net/wp-content/uploads/2013/12/v14N1-offshorereview.pdf

Coleman, James. 1958. *Nigeria: Background to Nationalism*. Berkeley and Los Angeles: University ofCalifornia Press.

Colino, César, and Luis Moreno. 2010. “Comparative Conclusions.” In *Diversity and Unity in Federal Countries*, edited by Luis Moreno and César Colino, 378-340. Montreal, Quebec: McGill-Queen's University Press.

Collier, Paul, and Anke Hoeffler. 2004. “Greed and Grievance in Civil War.” *Oxford Economics Paper* 56 (4): 563-595.

Collier, Ruth, and David Collie. 1991. *Shaping the Political Arena: Critical Junctures, the Labour Movement, and the Regime Dynamics in Latin America*. Princeton, NJ: Princeton University Press.

Constitution Act, 1867. http://laws-lois.justice.gc.ca/eng/Const/page-1.html

Constitution Act, 1982. http://laws-lois.justice.gc.ca/eng/Const/page-15.html#h- 38.

Conway, John. 2004. *Debts to Pay: English Canada and Quebec from the Conquest to the Referendum*. Toronto: Lorimer.

Conway, John. 2014. *The Rise of the New West: The History of a Region in Confederation*. Toronto: James Lorimer & Co. Ltd. Publishers.

Cook, Diane. 2005. “Stalled Offshore.” *Oilweek*. October.
www.em.gov.bc.ca/DL/offshore/Reports/stalled_offshore_story.pdf

Cook, Ramsay. 1969. *Provincial Autonomy Minority Rights Compact Theory 1867 1921*. Ottawa: The Queen's Printer.

Correspondence Concerning Proposals for Inter-colonial Union, Legislative & Federal. 1865. Fredericton: G.E. Fenety, Printer to the Queen's Most Excellent Majesty.

Coulombe, Serge. 2015. “Terms-of-Trade Changes, the Dutch Disease, and Canadian Provincial Disparity.” In *Canada the State of the Federation 2012: Regions, Resources, and Resilience*, edited by Loleen Berdahl, Andre Juneau, and Carolyn Tuohy, 23-36. Montreal: McGill University Press.

Country Watch. 2017. “Nigeria 2017 Country Review.”
www.countrywatch.com/Content/pdfs/reviews/B3Z95MZL.01c.pdf

Courchene, Thomas. 1986. “Avenues of Adjustment: The Transfer System and Regional Disparities.” In *The Canadian Economy: A Regional Perspective*, edited by Savoie, Donald, 25-62. Toronto: Methuen.

Courchene, Thomas. 2007. “A Short History of Equalization” *Policy Options* (March): 22-29.

Courchene, Thomas. 2015. “Surplus Recycling and the Canadian Federation: The Horizontal Fiscal Balance Dimension.” In *Canada the State of the Federation 2012: Regions, Resources, and Resilience*, edited by Loleen Berdahl, Andre Juneau, and Carolyn Tuohy, 71-98. Montreal: McGill University Press.

Crosbie, John. 2003. “Royal Commission on Renewing and Strengthening Our Place in Canada: Overview Paper on The 1985 Canada-Newfoundland Atlantic Accord. March.” www.exec.gov.nl.ca/royalcomm/research/pdf/Crosbie.pdf

Cullen, Richard. 1990. *Federalism in Action: The Australian and Canadian Offshore Disputes*. Sydney: Federation Press.

Cutler, Fred, and Matthew Mendelsohn. 2005. “Unnatural Loyalties or Naive Collaborationists? The Governments and Citizens of Canadian Federalism.” In *Insiders and Outsiders: Alan Cairns and the Reshaping of Canadian Citizenship*, edited by Kernerman, Gerald and Philip Resnick, pp. 71-89. British Colombia: UBC Press.

Dahlby, Bev. 2014a. “Reforming Equalization: Balancing Efficiency, Entitlement and Ownership.” *University of Ottawa School of Public Policy Research Papers* 7 (22). September. www.policyschool.ca/wp-content/uploads/2016/03/dahlby-equalization.pdf

Dahlby, Bev. 2014b. “Eliminate the Ceiling on Equalization Payments.” *National Post*. September 9. news.nationalpost.com/full-comment/bev-dahlby-eliminate-the-ceiling-on-equalization-payments

Daily Trust Editorial. December 12, 2002. “Nigeria: Stemming the Slide to Crisis over the Onshore/Offshore Bill.” *Daily Trust*. allafrica.com/stories/200212130248.html

Daily Trust Editorial. 2012. “Time to Reopen The Onshore-Offshore Dichotomy Debate.” *Daily Trust*, August 26. https://www.dailytrust.com.ng/news/general/time-to-reopen-the-onshore-offshore-dichotomy-debate/93904.html

Dale, Norman, and Hal Mills. 1979. “Coastal Water Boundaries: Issues and Jurisdictions.” *Canadian Water Resources Journal / Revue canadienne des ressources hydriques*, 4.3, 35-45.

Das, Satya. 2016. “Giving Our Oil Away: Will the Royalty Review Inspire Us to Act like Owners?” *Alberta Views*. March 1. alberta viewalbertaviews.ca/giving-oil-away/

Department of Energy, Mines and Resources. 1980. *The National Energy Program, 1980*. Ottawa: Supply and Services Canada.

de Soysa, Indra and Johannes Jütting. 2006. “Overview Paper: Roundtable Discussion.” Paper for the International Seminar on *Informal Institutions and Development– What Do We Know and What Can We Do?* OECD Development Centre & Development Assistance Committee–Network Governance. Paris, December 11-12. http://www.oecd.org/dac/governanceanddevelopment/37790393.pdf

Diamond, Larry. 2001. “Foreword.” In *Federalism and Ethnic Conflict in Nigeria*, by Rotimi Suberu. Washington, DC: United States Institute of Peace Press.

DiJohn, Jonathan. 2002. “Mineral Resource Abundance and Violent Political Conflict: A Critical Assessment of the Rentier State Model.” Crisis States Programme. Working Paper 1 (20). http://eprints.lse.ac.uk/28271/1/WP20JDJ.pdf

Dina, Isaac. 197*1. “Fiscal Measures.” In* Reconstruction and Development in Nigeria: Proceeds of a National Conference, edited by Alison Ayida and H. Onitiri, 374-400. Ibadan. NISER.

Donovan, John. 2017. “Shell Says Nigerian Oil Theft Volume Fell Nearly 80 PCT in 2016.” April 12. royaldutchshellgroup.com/2017/04/12/shell-says-nigerian-oil-theft-volume-fell-nearly-80-pct-in-2016/

Duchacek, Ivo. 1987. *Comparative Federalism: The Territorial Dimension of Politics*. Lanham, MD: University Press of America.

Dunn, Christopher. 2005. “Why Williams Walked, Why Martin Balked: The Atlantic Accord Dispute in Perspective.” *Policy Options* 26 (2): 9-14.

Dyck, Bruce. 2005. “Dirty Thirties: Fact and Myth.” *The Western Producer*. July 28. www.producer.com/2005/07/dirty-thirties-fact-and-myth/

Dymond, William, and Monique Moreau. 2012. “Canada.” In *Internal Markets and Multi-level Governance: The Experiences of the European Union, Australia, Canada, Switzerland, and the United States*, edited by George Anderson, 55-92. Don Mills, Ontario: Oxford University Press.

Eberlein, Burkard, and Bruce Doern. 2009. “Conclusions: Complexity, Coordination, and Capacity in German and Canadian Energy Regulatory Governance.” In *Governing the Energy Challenge: Canada and Germany in a Multilevel Regional and Global Context*, edited by Burkard Eberlein and Bruce Doern, 396-426. Toronto: University of Toronto Press.

Eccleston, Richard, and Timothy Woolley. 2014. “From Calgary to Canberra: Resource Taxation and Fiscal Federalism in Canada and Australia.” *Publius: The Journal of Federalism* 45 (2): 216–243.

Eccleston, Richard, Rob Hortle, and Richard Krever. 2017. “Introduction: The Evolution of Intergovernmental Financial Relations in the Twenty-first Century.” In *The Future of Federalism: Intergovernmental Financial Relations in an Age of Austerity*, edited by Richard Eccleston and Richard Krever, 1-14. Cheltenham, UK: Edward Elgar Publishing.

Egede, Edwin. 2005. “Who Owns the Nigerian Offshore Seabed: Federal or States? An Examination of the Attorney General of the Federation v. Attorney General of Abia State & 35 Ors Case” *Journal of African Law* 49 (1): 73-93.

Eisen, Ben, Charles Lammam, and Feixue Ren. 2016. “Are the Provinces Really Shortchanged by Federal Transfers?” Fraser Institute. January. https://www.fraserinstitute.org/sites/default/files/are-the-provinces-really-shortchanged-by-federal-transfers-rev.pdf

Ejobowah, John. 2010. “Territorial Pluralism: Assessing the Ethnofederal Variant in Nigeria.” *Regional & Federal Studies* 20 (2): 251-274.

Ekpebu, Lawrence. 1969. “Nigeria: Background to the Crisis.” *Research Review* 5 (35): 33-60.

Ekpo, Akpan. 2004. “Intergovernmental Fiscal Relations: The Nigerian Experience.” Paper presented at the 10th Year Anniversary of the Financial and Fiscal Commission of South Africa, Cape Town, South Africa. August 10-12.

Ekpo, Akpan, and Abwaku Englama. 2008. “Fiscal Federalism in Nigeria: Issues, challenges and Agencda for Reform.” In *Economic Policy Options for a Prosperous Nigeria*, edited by Paul Collier, Chukwuma Soludo, C. Pattillo, 221-243. Basingstoke, Hampshire: Palgrave Macmillan.

Ekpo, Akpan, and John Ndebbio. 1996. “Fiscal Operations in a Depressed Economy: Nigeria, 1960-90.” Africa Economic Research Consortium. Research Paper 44.

Ekwueme, Alex. 2002. “Federalism and Public Finance in Nigeria.” http://www.nigerdeltacongress.com/farticles/federalism_and_public_finance_in.htm.

Elaigwu, Isawa. 1988. “Nigerian Federalism under Civilian and Military Regimes” *Publius: The Journal of Federalism* 18 (1):173- 188.

Elaigwu, Isawa. 2006. “The Federal Republic of Nigeria.” In *Distribution of Powers and Responsibilities in Federal Countries*, edited by Akhtar majeed, Ronald Watts, and Douglas brown, 207-237. McGill-Queen's University press.

Elaigwu, Isawa. 2007a. “Federalism, Governance and Security in Nigeria.” International Conference on Nigeria: Too Rich for Dignity and the Law? Perspectives after the 2007 Elections. Evangelische Akademie Loccum. June 15-17. www.loccum.de/material/interpol/nigeria/elaigwu.pdf

Elaigwu, Isawa. 2007b. “Nigeria: The Current State of the Federation: Some Basic Challenges.” Paper presented at International Conference on Federalism in Honour of Professor Ronald Watts, Organized by the Institute of Intergovernmental Relations, Queens University, Kingston, Canada, October 18-21, 2007. www.queensu.ca/iigr/sites/webpublish.queensu.ca.iigrwww/files/files/conf/Arch/2007/Watts/papers/Elaigwu.pdf

Elaigwu, Isawa. 2012. *Nigeria: Essays in Governance and Society*. London: Adonis & Abbey Publishes Ltd.

Elazar, Daniel. 1987. *Exploring Federalism*. Tuscaloosa, AL: The University of Alabama Press.

Elazar, Daniel. 1995. F*ederalism: An Overview*. Pretoria: Human Services Research Council.

Elazar, Daniel. 1998. “Federalism and Peace-making.” Jerusalem Centre for Public Affairs. www.jcpa.org/dje/articles/fed-peace.htmE

Elumelu, Omolara. 2007. “Licenses, Leases and Other Contractual Arrangements for The Exploration and Production of Petroleum: Comparative Study Between Nigeria and the United States.” MLL thesis, University of Georgia.

Emery, Herb. 2006. “The Bloom Comes Off the Wild Rose Province.” In *Alberta Formed, Alberta Transformed*, Volume 2, edited by Cathy Cavanaugh, Michael Payne, and Donald Grant Wetherel, 703-726. Edmonton: University of Alberta Press.

Energy, Mines and Resources Canada. 1980. *The National Energy Program*. http://publications.gc.ca/collections/collection_2016/rncan-nrcan/M23-12-80-4-eng.pdf

English, John. 2009. *Just Watch Me: The Life of Pierre Elliott Trudeau: 1968-2000*. Toronto: Alfred A. Knopf Canada.

Entman, Robert. 1993. “Framing: Towards Clarification of a Fractured Paradigm.” *Journal of Communication* 43 (4): 51-58.

Erk, Jan. 2008. *Explaining Federalism: State, Society and Congruence in Austria, Belgium, Canada, Germany and Switzerland*. Routledge Series in Federal Studies, London and New York.

Erk, Jan. 2012. “Federalism and Its Discontents: The limits of New Institutionalism.” The Foundation for Law, Justice and Society Policy Brief.

Esmail, Shamas. 1979. *Talibs OPEC Trade Directory*. London and Basingstoke: Macmillan Press Ltd.

Falleti, Tulia. 2011. “Varieties of Authoritarianism: The Organization of the Military State and its Effects on Federalism in Argentina and Brazil.” *Studies in Comparative International Development* 46 (2): 137–162.

Falola, Toyin, and Matthew Heaton. 2008. *A History of Nigeria*. Cambridge: Cambridge University Press.

Fawcett, Max. 2016. “Heritage Trust Fund: Better Late than Never for Saving." *Alberta Views*. March 1. albertaviews.ca/heritage-trust-fund/

Fearon, James D., and David D. Laitin. 2003. “Ethnicity, Insurgency, and Civil War.” *The American Political Science Review* 97(1): 75-90.

Federal Inland Revenue Service. 2012. *A Comprehensive Tax History of Nigeria*. Ibadan: Safari Books Ltd.

Federal Republic of Nigeria. 1969. *Nigeria: Report of the Interim Revenue Allocation Review Committee*. Lagos: Federal Ministry of Information.

Federal Republic of Nigeria. 1978. “The Exclusive Economic Zone ct, Cap E17, Laws of the federation of Nigeria, 2004.” www.lawnigeria.com/LawsoftheFederation/EXCLUSIVE-ECONOMIC-ZONE-ACT.html

Federal Republic of Nigeria. 1980. *Report of the Presidential Commission on Revenue Allocation.* Apapa: Federal Government Press.

Federal-Provincial Conference of First Ministers on the Constitution. 1980. Ottawa, Ontario. September. *Verbatim Transcript*.

Feehan, James. 2005. Equalization and the Provinces Natural Resource Revenues: Partial Equalization Can Work Better." In *Canadian Fiscal Arrangements: What Works, What Might Work Better*, edited by Harvey Last, 185-208. Kingston: Institute of Intergovernmental Relations.

Feehan, James. 2014. “Searching for Fiscal Perfection.” *National Post*. September 11.

Feeley, Malcolm, and Edward Rubin. 2008. *Federalism: Political Identity and Tragic Compromise*. Ann Arbor: University of Michigan Press.

Ferguson, Barry. 1975. *Athabasca Oil Sands: Northern Resource Exploration, 1875–1951*. Regina: Canadian Plains Research Center.

Feyrer, James. 2009. “The 1967-75 Suez Canal Closure: Lessons for trade and the trade-income link.” December 29. voxeu.org/article/1967-75-suez-canal-closure-lessons-trade

Filippov, Mikhail, and Olga Shvetsova. 2013. “Federalism, Democracy, and Democratization.” In *Federal Dynamics: Continuity, Change and Varieties of Federalism*, edited by Arthur Benz and Jörg Broschek, 167-184. Oxford: Oxford University Press.

Filippov, Mikhail, Peter Ordeshook, and Olga Shvetsova. 2004. *Designing Federalism: A Theory of Self-Sustainable Federal Institutions*. Cambridge, MA: Cambridge University Press.

Finch, David. 1984. “Shacks, People and Petroleum.” *Journal of Canadian Petroleum Technology* 23 (05): 72-74.

Finch, David. 2008. “The History of the Conservation Board.” Alberta Oil Magazine. June 29. www.albertaoilmagazine.com/2008/07/the-history-of-the-conservation-board/

Finer, Samuel, Vernon Bogdanor, and Bernard Rudden. 1995. *Comparing Constitutions*. Oxford: Clarendon Press.

Finlay, Mary. n.d. *The Prime Ministers of Canada: Brian Mulroney Issues*. www.prime-ministers.ca/mulroney/issues.php

Fioretos, Orfeo, Tulia Falleti, and Adam Sheingate. 2016. “Historical Institutionalism in Political Science.” In *The Oxford Handbook of Historical Institutionalism, edited by* Orfeo Fioretos, Tulia G. Falleti, and Adam Sheingate, 3-31. New York: Oxford University Press.

Flanagan, Tom. *Harper's Team: Behind the Scenes in the Conservative Rise to Power*. Montreal & Kingston: McGill-Queen's University Press.

Flanagan, Tom, and Mark Milke. 2005. "Alberta's Real Constitution: The Natural Resources Transfer Agreement." In *Forging Alberta's Constitutional Framework*, edited by Richard Connors, John M. Law, 165-190. Edmonton: University of Alberta.

Forum on Early Warning and Early Response (FEWER). 2001. Conflict Analysis and Response Definition. April. Forum on Early Warning and Early Response (FEWER), Conflict Analysis and Response Definition (Abridged) Methodology, London, April 2001, p 7. <www.fewer.org/research/index.htm>

Fossum, John Erik. 1997. *Oil, the State, and Federalism: The Rise and Demise of Petro-Canada as a Statist Impulse*. Toronto: University of Toronto Press.

Foster, Franklin. 2004. "John E. Brownlee, 1925-1934." In *Alberta Premiers of the Twentieth Century*, edited by Bradford Rennie, 77-106. Regina: University of Regina. Canadian Plains Research Center.

Friedrich, Carl. 1968. *Trends of Federalism in Theory and Practice*. London: Pall Mall Press.

Frynas, Jedrzej. 2000. *Oil in Nigeria: Conflict and Litigation Between Oil Companies and Village Communities*. Hamburg: LIT Verlag Münster.

Gagnon, Alain-G. 1993. "The Political Uses of Federalism." In *Comparative Federalism and Federation: Competing Traditions and Future Directions,* edited by Michael Burgess and Alain-G. Gagnon, 53-86. Toronto: University of Toronto Press.

Gagnon, Alain-G., and Richard Simeon. 2010. "Canada." In *Diversity and Unity in Federal Countries*, edited by Luis Moreno and César Colino, 109-138. Montreal: McGill-Queens University Press.

Galloway, Gloria, and Jane Taber. 2013. "N.B. protesters plan more protests after violent clash with RCMP over shale-gas project." *The Globe and Mail*. October 17. https://beta.theglobeandmail.com/news/national/rcmp-move-in-on-first-nation-protesting-shale-gas-development/article14904344/?ref=http://www.theglobeandmail.com&

Gamkhar, Shama, and Vickers, Jill. 2010. "Comparing Federations: Lessons from Comparing Canada and the United States" *Publius: The Journal of Federalism* 40 (3): 351-356.

Garba, Dauda. 2010. "Oil and the Politics of Natural Resources Governance in Nigeria." In *The Coming African Hour: Dialectics of Opportunities and Constraints*, edited by Luc Sindjoun, 121-138. Pretoria: Africa Institute of South Africa.

Gary, Ian, and Karl, Terry. 2003. *Bottom of the Barrel: Africa's Oil Boom and the Poor*. Washington: Catholic Relief Services.

Gattinger, Monica. 2015. "A National Energy Strategy for Canada: Golden Age or Holden Cage of Energy Federalism." In *Canada the State of the Federation 2012: Regions, Resources, and Resilience*, edited by Loleen Berdahl, Andre Juneau, and Carolyn Tuohy, 39-70. Montreal: McGill University Press.

Gault, Ian. 1983. "Recent Developments in the Federal-provincial Dispute Concerning Jurisdiction over offshore Petroleum Resources." *Alberta Law Review* 21: 97-113.

Gault, Ian. 1985. "Jurisdiction Over the Petroleum Resources of the Canadian Continental Shelf: The Emerging Picture." *Alberta Law Review* 23 (1): 75-100.

Gbinije, Bobson. 2005. “Nigeria: The Dichotomy Suit and Niger Delta.” Daily Champion. January 31. allafrica.com/stories/200501311361.html

Gelb, Alan. 2010. Economic Diversification in Resource Rich Countries. www.imf.org/external/np/seminars/eng/2010/afrfin/pdf/gelb2.pdf

George, Alexander L., and Andrew Bennett. 2005. *Case Studies and Theory Development in the Social Sciences*. Cambridge, MA: MIT Press.

Gerring, John. 2007. *Case Study Research – Principles and Practices*. Cambridge: Cambridge University Press.

Gerring, John. 2008. “Case Selection for Case-Study Analysis: Qualitative and Quantitative Techniques.” In *The Oxford Handbook of Political Methodology*, edited by Janet Box-Steffensmeier, Henry Brady, and David Collier, 645–684. New York: Oxford University Press.

Gerring, John, and Jason Seawright. 2008. “Case Selection Techniques in Case Study Research: A Menu of Qualitative and Quantitative Options.” *Political Research Quarterly* 61 (2): 294-308.

Gibbins, Roger. 1982. *Regionalism: Territorial politics in Canada and the United States*. Butterworths: Toronto.

Gibbins, Roger. 1992. “Alberta and the National Community.” In *Government and Politics in Alberta*, edited by Allan Tupper and Roger Gibbins, 67-84. Edmonton: University of Alberta Press.

Gibson, Edward. 2004. “Federalism and Democracy: Theoretical Connections and Cautionary Insights.” In *Federalism and Democracy in Latin America*, edited by Edward Gibson, 1-28. Baltimore, Maryland: Johns Hopkins University Press.

Gibson, Edward. 2005. “Boundary control: Subnational authoritarianism in democratic countries.” *World Politics* 58 (1): 101-132.

Gillies, Alexandra. 2009. “Reforming Corruption out of Nigerian Oil? Part One: Mapping Corruption Risks in Oil Sector Governance.” U4 Brief. February. www.u4.no/themes/nrm

Gillies, Alexandra, Aaron Sayne, and Christina Katsouri. 2015. “Inside NNPC Oil Sales: A Case for Reform in Nigeria.” Natural Resource Governance Institute. www.resourcegovernance.org/sites/default/files/documents/nrgi_insidennpcoilsales_mainreport.pdf

Goldstone, Jack. 2003. “Comparative Historical Analysis and Knowledge Accumulation in the Study of Revolutions.” In *Comparative Historical Analysis in the Social Sciences*, edited by James Mahoney and Dietrich Rueschemeyer, 41-90. Cambridge, NY: Cambridge University Press, 2003.

Government of Canada. 2006. “Forging Our Legacy: Canadian Citizenship and Immigration, 1900–1977.” www.cic.gc.ca/english/resources/publications/legacy/chap-2.asp

Government of Canada. “Oil Sands.” 2013. www.nrcan.gc.ca/sites/www.nrcan.gc.ca/files/energy/pdf/eneene/pubpub/pdf/OS-brochure-eng.pdf

Government of Canada. 2015. “History of Canada.” canada.pch.gc.ca/eng/1443789176775#a23

Government of Canada. 2017. “Canada and the United States.” can-am.gc.ca/relations/energy-energie.aspx?lang=eng

Gow, Bonar. 2005. *Roughnecks, Rock Bits and Rigs: The Evolution of Oil Well Drilling Technology in Alberta, 1883-1970*. Calgary: University of Calgary Press.

Graham, Ron. 2011. *The History of Canada Series*. Toronto: Penguin Group.

Greenspon, Edward. 2001. "Hamming it up for a Break." *The Globe and Mail*. July 31. https://www.theglobeandmail.com/news/national/hamming-it-up-for-a-break/article762578/

Greif, Avner. 2006. *Institutions and the Path to the Modern Economy: Lessons from Medieval Trade*. Cambridge: Cambridge University Press.

Greif, Avner, and David Laitin. 2004. "A Theory of Endogenous Institutional Change" *American Political Science Review* 98 (4): 633-652.

Griffin, Christopher. 2015. "French Military Policy in the Nigerian Civil War, 1967–1970" *Small Wars & Insurgencies* 26 (1): 114–135.

Haber, Stephen, and Victor Menaldo. 2011. "Do Natural Resources Fuel Authoritarianism? A Reappraisal of the Resource Curse" *American Political Science Review* 105 (1): 1-26.

Hacker, Jacob. 2004. "Privatizing Risk Without Privatizing the Welfare State: The Hidden Politics of Social Policy Retrenchment in the United States." *American Political Science Review* 98(2): 243–60.

Hacker, Jacob, Paul Pierson, and Kathleen Thelen. 2015. "Drift and Conversion: Hidden Faces of Institutional Change." In *Advances in Comparative-Historical Analysis*, edited by James Mahoney and Kathleen Thelen, 180-208. Cambridge: Cambridge University Press.

Hale, Henry. 2008. "The Double-Edged Sword of Ethnofederalism: Ukraine and the USSR in Comparative Perspective" *Comparative Politics* 40 (3): 293-312.

Hall, Peter. 1993. "Policy Paradigms, Social Learning, and the State: The Case of Economic Policymaking in Britain." *Comparative Politics* 25 (3), 275–296.

Hall, David. 2006. "North-West Territories: 1870–1905." www.thecanadianencyclopedia.ca/en/article/north-west-territories-1870-1905/

Hall, Peter, and Rosemary Taylor Hall. 1996. "Political Science and the Three New Institutionalisms." *Political Studies* 44 (5): 936–957.

Harris, Michael. 2014. December 14. "There are Lies, Damn Lies, and Stephen Harper." ipolitics.ca/2014/12/14/lies-damn-lies-and-stephen-harper/

Harrison, Rowland. 1978. "The Offshore Mineral Resources Agreement in the Maritime Provinces." *Dalhousie Law Journal* 4: 245-76.

Harrison, Rowland. 1979. "Jurisdiction over the Canadian Offshore: A Sea of Confusion." *Osgoode Hall Law Journal* 17 (3): 469-505.

Hawkes, David, and Bruce Pollard. 1987. "The Evolution of Canada's New Energy Policy." In *Canada: The State of the Federation 1986*, edited by Peter Leslie, 151-166. Kingston, Ontario: Institute of Intergovernmental Relations, Queen's University.

Hay, Colin, and Daniel Wincott. 1998. "Structure, Agency and Historical Institutionalism" *Political Studies* 46 (5): 951–957.

Haysom, Nicholas, and Sean Kane. 2009. “Negotiating Natural Resources for Peace: Ownership, Control and Wealth-sharing.” Geneva: Centre for Humanitarian Dialogue. http://www.hdcentre.org/files/*Negotiating%20natural%20resources%20for%20peace.pdf*

Hartzell, Caroline and Donald Rothchild, 2000. “Security in Deeply Divided Societies: The Role of Territorial Autonomy.” In *Identity and Territorial Autonomy in Plural Societies*, edited by William Safran and Ramón Máiz, 254-271. New York, NY: Frank Cass.

Head, Ivan. 1968. “The Canadian Offshore Minerals Reference: The Application of International Law to a Federal Constitution.” *The University of Toronto Law Journal* 18,(2): 131-15.

Helliwell, John, et al. 1986. “The Western Accord and Lower World Oil Prices.” *Canadian Public Policy* 12 (2): 341-355.

Herbst, Jeffrey. 2000. *States and Power in Africa: Comparative Lessons in Authority and Control*. Princeton: Princeton University Press.

Higdon, Andrew. 2013. “The Canadian Submission to the United Nations Commission on the Continental Shelf.” *McGill International Journal of Sustainable Development Law and Policy* 9 (2): 43-68.

Higgins, Jenny. 2011. “The Peckford Government 1979-1989.” Newfoundland and Labrador Heritage Web Site. www.heritage.nf.ca/articles/politics/peckford-government.php

Higgins, Jenny. 2012. “The 1985 Canada-Newfoundland Atlantic Accord.” Newfoundland and Labrador Heritage Web Site. www.heritage.nf.ca/articles/politics/atlantic-accord.php

Hindu, The. 2015. “Emergency: The Dark Age of Indian Democracy.” 26 June. www.thehindu.com/specials/in-depth/the-emergency-imposed-by-indira-gandhi-government/article7357305.ece

Hogg, Peter. 1977. *Constitutional Law of Canada*. Toronto: The Carswell Co. Ltd.

Holle, Peter. 2012. “Artificially Cheap Hydro Power, Your Equalization Dollars at Work.” *National Post*. May 29. news.nationalpost.com/full-comment/peter-holle-artificially-cheap-hydro-power-your-equalization-dollars-at-work

Horowitz, Donald. 1985. *Ethnic Groups in Conflict*. Berkeley: University of California Press.

Horowitz, Donald. 1993. “Democracy in Divided Societies.” *Journal of Democracy* 4 (4): 18–38.

Horowitz, Donald. 2007. “The Many Uses of Federalism.” *Drake Law Review* 55(4): 953–66.

House of Commons [UK] Debate. 1954. “Nigeria (Constitutional Conference).” http://hansard.millbanksystems.com/commons/1954/feb/10/nigeria-constitutional-conference#column_1181

Howlett, Karen, and Jane Taber. 2015. “Ontario to Lose Equalization Payments as Alberta's Economic Fortunes Fall.” *The Globe and Mail*. December 17. https://www.theglobeandmail.com/news/politics/ontario-to-lose-equalization-payments-as-albertas-economic-fortunes-fall/article27831080/

Hueglin, Thomas. 2008. “Working around the American Model: Canadian Federalism and the European Union.” In *The Comparative Turn in Canadian Political Science*, edited by Linda White, Richard Simeon, Robert Vipond, and Jennifer Wallner, 140-57. Vancouver: UBC Press.

Hueglin, Thomas, and Alan Fenna. 2015. *Comparative Federalism: A Systematic Inquiry*. Toronto: University of Toronto Press.

Human Rights Watch. 1999. *The Price of Oil: Corporate Responsibility and Human Rights Violations in Nigeria's Oil Producing Communities*. New York: Human Rights Watch.

Humphreys, Macartan. 2005. "Natural Resources, Conflict, and Conflict Resolution: Uncovering the Mechanisms." *Journal of Conflict Resolution* 49(4): 508-537.

Ibaba, Ibaba Samuel, Okechukwu Ukaga, and Ukoha Ukiwo. 2012. "Introduction: Natural Resource, Conflict, and Sustainable Development in the Niger Delta." In *Natural Resources, Conflict, and Sustainable Development: Lessons from the Niger Delta*, edited by Okechukwu Ukaga, Ukoha Ukiwo, Ibaba Samuel Ibaba, 1-22. New York: Routledge.

Iff, Andrea. 2012. "Promoting Federalism: Making Sense of India and Nigeria." *Publius: The Journal of Federalism* 42 (2): doi: 10.1093/publius/pjs031

Ige, Ise-Oluwa. 2004. "Nigeria: 19 Northern States, 3 Others Want Oil Dichotomy Back." *Vanguard* 12. allafrica.com.login.ezproxy.library.ualberta.ca/stories/200408120171.html.

Ikein, Augustine, and Comfort Briggs-Anigboh. 1998. *Oil and Fiscal Federalism in Nigeria: The Political Economy of Resource Allocation in a Developing Country*. London: Ashgate.

Ikein, Augustine, Diepreye Alamieyeseigha, and Steve Azaik. 2008. *Oil, Democracy, and the Promise of True Federalism in Nigeria* Lanham, Maryland: University Press of America, Inc.

Ikenberry, John. 1994. "History's Heavy Hand: Institutions and the Politics of the State." Paper delivered at the University of Maryland. October 1.
http://www.princeton.edu/~gji3/HistorysHeavyHand.pdf

Iledare, Wumi, and Rotimi Suberu. 2012. "Nigeria." In *Oil and Gas in Federal Systems*, edited by George Anderson, 227-256. Don Mills, Ontario: Oxford University Press.

Immergut, Ellen. 1998. "The Theoretical Core of the New Institutionalism." *Politics and Society* 26 (1): 5–34.

Immergut, Ellen. 2006. "Historical-Institutionalism in Political Science and the Problem of Change." In *Understanding Change: Models, Methodologies and Metaphors* edited by Andreas Wimmer and Reinhart Kössler, 237-259. Basingstoke: Palgrave Macmillan.

Immergut, Ellen, and Karen M. Anderson. 2009. "Historical Institutionalism and West European Politics." In *European Politics: Pasts, Presents, Futures*, edited by Klaus Goetz, Peter Mair, and Gordon Smith, 345-369. Abingdon, Oxon: Routledge.

International Court of Justice. 1984. "Case Concerning Delimitation of the Maritime Boundary in the Gulf Of Maine Area." www.icj-cij.org/docket/index.php?sum=346&p1=3&p2=3&case=67&p3=5

International Crisis Group. 2006. "The Swamps of Insurgency: Nigeria's Delta Unrest." Africa Report No. 115. August 3.

International Energy Agency (IEA). 2012. "Oil and Gas Emergency Policy."
http://www.iea.org/publications/freepublications/publication/oil-and-gas-emergency-policy---switzerland-2012-update.html

International Monetary Fund. 2015. "Nigeria: Selected Issues Paper." IMF Country Report No. 15/85. March. www.imf.org/external/pubs/ft/scr/2015/cr1585.pdf

Isham, Jonathan, et al. 2005. “The Varieties of Resource Experience: Natural Resource Export Structures and the Political Economy of Economic Growth” *World Bank Economic Review* 19 (2): 141–174.

Isumonah, Victor. 2012. “Imperial Presidency and Democratic Consolidation in Nigeria.” *Africa Today*, 59 (1): 43-68.

Ite, Aniefiok, et al. 2013. “Petroleum Exploration and Production: Past and Present Environmental Issues in the Nigeria’s Niger Delta” *American Journal of Environmental Protection* 1 (4): 78-90.

Jackson, Dale. 1989. “Politics and Power: Petroleum Policy in British Columbia.” MA Thesis, Department of Political Science, University of British Columbia.

Jackson, Gregory. 2010. “Actors and Institutions.” In *The Oxford Handbook of Comparative Institutional Analysis,* edited by Glenn Morgan, John L. Campbell, Colin Crouch, Ove Kaj Pedersen, and Richard Whitley, 65-86. Oxford: Oxford University Press.

Janigan, Mary. 2012. *Let the Eastern Bastards Freeze in the Dark: The West Versus the Rest Since Confederation.* Toronto: Alfred A. Knopf Canada.

Jega, Mahmud. 2012. “Crisis in North: As the Governors See it, by Gov Aliyu.” *Daily Trust*. April 8.www.dailytrust.com.ng/news/general/crisis-in-north-as-the-governors-see-it-by-gov-aliyu/92557.html

Jinadu, Adele. 2002. “Ethnic Conflict & Federalism in Nigeria.” ZEF – Discussion Papers on Development Policy Number 49. September.

Johnson, Tracy. 2015. “Is Northern Gateway Quietly Being Shelved?” www.cbc.ca/news/business/is-northern-gateway-quietly-being-shelved-1.2965355

Jones, David. 2006. “The Dance of the Grizzly Bear: Boom to Bust, 1912-13.” In *Alberta Formed—Alberta Transformed: Volume 2*, edited by Donald Weatherell, Cathy Cavanaugh, and Michael Payne, 361-386. Edmonton: University of Alberta Press.

Kaiser, André, and Stephan Vogel. 2017. “Dynamic De/Centralization in Germany, 1949–2010.” *Publius: The Journal of Federalism*. https://doi.org/10.1093/publius/pjx054

Katsouri, Christina, and Aaron Sayne. 2013. *Nigeria’s Criminal Crude: International Options to Combat the Export of Stolen Oil*. London: Chatham House.

Katznelson, Ira. 1997. “Structure and Configuration in Comparative Politics.” In *Comparative Politic: Rationality, Culture, and Structure*, edited by By Mark Irving Lichbach and Alan Zuckerman, 81-112. New York: Cambridge University Press.

Katznelson, Ira. 2003. “Periodization and Preferences: Reflections on Purposive Action in Comparative Historical Social Science.” In *Comparative Historical Analysis in the Social Sciences*, edited by James Mahoney and Dietrich Rueschemeyer, 270–301. Cambridge: Cambridge University Press, 2003.

Katznelson, Ira, and Barry Weingast. 2005. “Intersections between Historical and Rational Choice Institutionalism.” In *Preferences and Situations: Points of Intersection between Historical and Rational Choice*, edited by Ira Katznelson and Barry Weingast, 1-24. Russell Sage Foundation.

Kaufman, Daniel and Lisa Sachs. 2014. "Foreword." In *Managing the Public Trust: How To Make Natural Resource Funds Work For Citizens*, edited by Andrew Bauer, 1-2. New York: NRGI & CCSD.

Kelemen, Daniel. 2004. *The Rules of Federalism Institutions and Regulatory Politics in the EU and Beyond*. Cambridge, MA; London: Harvard University Press.

Kennedy-Glans, Donna. 2016. “Economic Diversification.” *Alberta Views*. October 1. albertaviews.ca/economic-diversification/

Kent, Tom. 2004. “An Elected Senate: Key to Redressing the Democratic Deficit, Revitalizing Federalism.” *Policy Options*. policyoptions.irpp.org/magazines/budget-2004/an-elected-senate-key-to-redressing-the-democratic-deficit-revitalizing-federalism/

Khan, Sarah. 1994. *Nigeria: The Political Economy of Oil*. Oxford: Oxford University Press.

Kincaid, John. 2005. “Introduction.” In *Handbook of Federal Countries, 2005*, edited by Ann Griffiths, 3-15. Montreal & Kingston: McGill-Queen's University Press.

Kincaid, John. 2005. “Comparative Observations.” In *Constitutional Origins, Structure, and Change in Federal Countries*, edited by John Kincaid and Alan Tarr, 409-448. Kingston: McGill-Queen's University Press.

Kincaid, John, and Alan Tarr, eds. 2005. *Constitutional Origins, Structures and Change*: *A Global Dialogue on Federalism*. Montreal and Kingston: McGill-Queen’s University Press.

King, Preston. 1982. *Federalism and Federation*. Baltimore, Maryland: Johns Hopkins University Press.

King, Preston. 1993. “Federations and Representation.” In *Comparative Federalism and Federation: Competing Traditions and Future Directions*, edited by Michael Burgess and Alain Gagnon, 94-114. Toronto: University of Toronto Press.

Kleine, Mareike. 2013. “Informal Governance in the European Union.” *Journal of European Public Policy* 21 (2): 303-314.

Kleiss, Karen. 2015. “Analysis: How the Alberta Progressive Conservative Dynasty Fell.” *Edmonton Journal*. July 5. www.edmontonjournal.com/Analysis+Alberta+Progressive+Conservative+dynasty+fell/11033955/story.html

Kneebone, Ron. 2015. “Mind the Gap: Dealing With Resource Revenue in Three Provinces.” University of Calgary School of Public Policy Reserach Papers Vol 8., Issue 20. April. www.policyschool.ca/wp-content/uploads/2016/03/mind-gap-kneebone.pdf

Kobylka, Joseph, and Bradley Carter. 1987. “Madison, ‘The Federalist’, & the Constitutional Order: Human Nature & Institutional Structure.” *Polity* 20 (2): 190-208.

Krasner, Stephen. 1984. “Approaches to the State: Alternative Conceptions and Historical Dynamics.” *Comparative Politics* 16 (2): 243-266.

Krauss, Clifford. 2016. “Oil Prices: What’s Behind the Drop? Simple Economics.” *New York Times*. January 22. www.nytimes.com/interactive/2016/business/energy-environment/oil-prices.html

Kymlicka, Will. 1995. *Multicultural Citizenship: A Liberal Theory of Minority Rights*. Oxford: Clarendon Press.

Kymlicka, Will. 1998. “Is Federalism a Viable Alternative to Secession?” In *Theories of Secession*, edited by Percy Lehning, 111–150. London: Routledge.

LaForest, Gerald. 1969. *Natural Resources and Public Property Under the Canadian Constitution*. Toronto: University of Toronto Press.

Lagos State Government. 2016. “Lagos Now Officially an Oil Producing State—Ambode.” May 16. www.lagosstate.gov.ng/2016/05/16/lagos-now-officially-an-oil-producing-state-ambode/

Lake, David, and Donald Rothchild. 2005. “Territorial Decentralization and Civil War Settlements.” *In Sustainable Peace: Power and Democracy After Civil Wars,* edited by Philip Roeder and Donald Rothchild, 109–13. Ithaca: Cornell University Press.

Lambert, Steve. 2015. “Have-Not Provinces Getting Too Much Equalization Money, Brad Wall Says.” *National Post*. August 6. news.nationalpost.com/news/canada/have-not-provinces-getting-too-much-equalization-money-brad-wall-says

Lambton County. 2010. “Oil Heritage Conservation District Study.” https://www.lambtononline.ca/home/residents/planninganddevelopment/Oil%20Heritage%20Conservation%20District%20Plan%20Documents/Conservation%20District%20Study%20Text.pdf

Lane, Jan-Erik, and Ersson, Svante. 1994. *Politics and Society in Western Europe*. London: Sage Publications.

Lauterpacht, Elihu, et al., eds. *2006. International Law Reports*. Volume 128. Cambridge: Cambridge University Press.

Lawson, Robert. 2005. “Understanding Alienation in Western Canada: is ‘Western Alienation’ the Problem? Is Senate Reform the Cure?” *Journal of Canadian Studies* 39 (2): 127-29.

Laxer, James. 1983. *Oil and Gas: Ottawa, the Provinces and the Petroleum Industry.* Toronto: James Lorimer & Co.

Laxer, Gordon. 2015. *After the Sands: Energy and Ecological Security for Canadians*. Madeira Par: Douglas & McIntyre.

Lazar, Harvey. 2008. “Fiscal Federalism: An Unlikely Bridge between the West and Quebec.” The Canadian Political Science Review 2 (3): 51–67.

Lecours, André. 2000. “Theorizing Cultural Identities: Historical Institutionalism as a Challenge to the Culturalists” *Canadian Journal of Political Science* XXXIII (3): 499-522.

Lecours, André. 2005. “New Institutionalism: Issues and Questions.” In *New Institutionalism: Theory and Analysis*, edited by Andre□ Lecours, 3-26. Toronto: University of Toronto Press.

Lecours, André. 2014. “The Question of Federalism in Nepal.” *Publius: The Journal of Federalism* 44 (4): 609–632.

Lecours, André. 2017. “Dynamic De/Centralization in Canada, 1867–2010.” *Publius: The Journal of Federalism*. https://doi.org/10.1093/publius/pjx046

Lecours, André, and Daniel Béland. 2013. “The Institutional Politics of Territorial Redistribution: Federalism and Equalization Policy in Australia and Canada” *Canadian Journal of Political Science* 46 (1): 93-113.

Lecours, André, and Daniel Béland. 2010. “Federalism and Fiscal Policy: The Politics of Equalization in Canada” *Publius: The Journal of Federalism* 40(4): 569-596.

Lederach, John. 2003. *The Little Book of Conflict Transformation*. Intercourse, PA: Good Books Publishers.

Levan, Carl. 2015. *Dictators and Democracy in African Development: The Political Economy of Good Governance in Nigeria*. Cambridge: Cambridge University Press.

Levy, Jack. 2008. "Case Studies: Types, Designs, and Logics of Inference." *Conflict Management and Peace Science* 25 (1): 1-18.

Lewis, Paul. 1995. "Nigerian Group Defends the Executions of 9 Nigerian Activists." *The New York Times*. December 7. http://www.nytimes.com/1995/12/07/world/nigerian-group-defends-the-executions-of-9-nigerian-activists.html

Lewis, Peter. 2007. *Growing Apart: Oil, Politics and Economic Change in Indonesia and Nigeria*. Ann Arbor: University of Michigan Press.

Library and Archives Canada. 2001. "No Confederation." December 14. www.collectionscanada.gc.ca/confederation/023001-7124-e.html

Library and Archives Canada. 2005. "The Alberta Act." May 2. https://www.collectionscanada.gc.ca/confederation/023001-7109-e.html

Library of Congress. 2017. Treaty with Russia for the Purchase of Alaska. https://www.loc.gov/rr/program/bib/ourdocs/Alaska.html

Lieberman, Robert. 2002. "Ideas, Institutions, and Political Order: Explaining Political Change." *American Political Science Review* 96(4): 697-712

Lijphart, Arend. 1977. *Democracy in Plural Societies: A Comparative Exploration*. New Haven: Yale University Press.

Lijphart, Arend. 1979. "Consociation and Federation: Conceptual and Empirical Links." *Canadian Journal of Political Science* 12 (3): 499-515.

Lijphart, Arend. 2008. *Thinking About Democracy. Power Sharing and Majority Rule in Theory and Practice*. Abingdon, Oxon: Routledge.

Lindner, Johannes. 2006. *Conflict and Change in EU Budgetary Politics*. London: Routledge.

Linz, Juan. 1990. "The Perils of Presidentialism." *Journal of Democracy* 1 (1): 51-69.

Linz, Juan, and Alfred Stepan. 1992. "Political Identities and Electoral Sequences: Spain, the Soviet Union, and Yugoslavia" *Daedalus*, 121 (2): 123-39.

Livingston, William. 1952. "A Note on the Nature of Federalism." *Political Science Quarterly* 67: 81-95.

Livingston, William. 1956. *Federalism and Constitutional Change*. Oxford: Clarendon Press.

Lo, Tricia. 2016. "Alberta's Government Budget Too Reliant on Volatile Oil, Economist Says." CBC News. March 09. www.cbc.ca/news/canada/calgary/trevor-tombe-economic-diversification-govt-income-1.3483827

Locke, Wade, and Paul Hobson. 2004. "An Examination of the Interaction between Natural Resource Revenues and Equalization Payments: Lessons for Atlantic Canada." October 22. irpp.org/research-studies/working-paper-no2004-10/

Lougheed, Peter. 2012. "It's Time to Save, Again: Next Tory Leader Should Ssk Albertans." *Calgary Herald*. September 13.

www.calgaryherald.com/business/time+save+again+next+tory+leader+should+albertans/7226084/story.html

Louis Riel Institute. 2015. “History of Red River & LAA.” www.legislativeassemblyofassiniboia.ca/en/page/179/credits
http://juspoliticum.com/article/Federalism-as-Compared-to-What-Sorting-out-the-Effects-of-Federalism-Unitary-Systems-and-Decentralization-1120.html

Louis, Roger. 2006. *Ends of British Imperialism: The Scramble for Empire, Suez, and Decolonization*. London: I.B. Tauris.

Luckham, Robin. 1971. *The Nigerian Military: A Sociological Analysis of Authority & Revolt 1960-1967*. Cambridge: University of Cambridge Press.

Luong, Pauline, and Erika Weinthal. 2010. *Oil Is Not a Curse: Ownership Structure and Institutions in Soviet Successor States*. Cambridge: Cambridge University Press.

Lynn, Martin. 2006. “The Nigerian Self-government Crisis of 1953 and the Colonial Office.” *The Journal of Imperial and Commonwealth History* 34 (2); 245-261.

MacKay, Todd. 2015. “Everyone Knows Equalization Screws Over Saskatchewan, But It Was Worse Off as a Have-Not Province.” *National Post*. July 28. http://nationalpost.com/opinion/todd-mackay-everyone-knows-equalization-screws-over-saskatchewan-but-it-was-worse-off-as-a-have-not-province

Markusoff, Jason. 2017. "Who are the Alberta NDP’s Biggest Donors? Its Own Staffers." Macleans. May 5. www.macleans.ca/politics/who-are-the-alberta-ndps-biggest-donors-its-own-staffers/

Mahdavy, Hossein. 1970. “The Pattern and Problems of Economic Development in Rentier States: The Case of Iran.” In *Studies in the Economic History of the Middle East*, edited by M.A. Cooks, 428-467. Oxford: Oxford University.

Mahoney, James. 1999. “Nominal, Ordinal, and Narrative Appraisal in Macrocausal Analysis.” *American Journal of Sociology* 104 (4): 1154–96.

Mahoney, James. 2000. “Path Dependence in Historical Sociology.” *Theory and Society* 29: 507-48.

Mahoney, James. 2001. “Beyond Correlational Analysis: Recent Innovations in Theory and Method.” *Sociological Forum* 16 (3): 575-593.

Mahoney, James, and Daniel Schensul. 2006. “Historical Context and Path Dependence.” In *The Oxford Handbook of Contextual Political Analysis*, edited by Robert E. Goodin and Charles Tilly, 454-471. Oxford: oxford University Press.

Mahoney, James, and Dietrich Rueschemeyer. 2003. “Comparative Historical Analysis in the Social Sciences: Achievements and Agendas.” In *Comparative Historical Analysis in the Social Sciences*, edited by James Mahoney and Dietrich Rueschemeyer, 3-40. Cambridge: Cambridge University Press.

Mahoney, James, and Kathleen Thelen. 2010. “A Theory of Gradual Institutional Change.” In *Explaining Institutional Change: Ambiguity, Agency and Power*, edited by James Mahoney and Kathleen Thelen, 1-37. Cambridge: Cambridge University Press.

Manning, Preston. 1991. *The New Canada*. Toronto: Macmillan.

March, James, and Johan Olsen. 2011. “The Logic of Appropriateness.” In *The Oxford Handbook of Political Science*, edited by Robert Goodin, 479. 497. Oxford: Oxford University press.

Marland, Alex. 2010. “Masters of Our Own Destiny: The Nationalist Evolution of Newfoundland Premier Danny Williams.” *International Journal of Canadian Studies* 42: 155-181.

Marland, Alex. 2014. “The Brand Image of Governing Parties and Leaders.” In *First among Unequals: The Premier, Politics, and Policy in Newfoundland and Labrador*, edited by Alex Marland and Matthew Kerby, 100-120. McGill-Queen's University Press.

Marsden, William. 2008. *Stupid to the Last Drop: How Alberta Is Bringing Environmental Armageddon to Canada (And Doesn't Seem to Care*). Toronto: Vintage.

Martin, Cabot. 1975. “Newfoundland's Case on Offshore Minerals: A Brief Outline.” *Ottawa Law Review* 7 (34): 34–61.

Martin, Chester. 1920. *'The Natural Resources Question': The Historical Basis of Provincial Claims.* Winnipeg, Manitoba: Philip Purcell, King's Printer.

May, Gary. 1998. *Hard Oiler!: The Story of Canadians' Quest for Oil at Home and Abroad*. Toronto: Dundurn Press.

McCormick, Peter. 1989. “Regionalism in Canada: Disentangling the Threads.” *Journal of Canadian Studies* 24 (2): 5-21.

McDermott, Rose. 1998. *Risk-Taking in International Politics: Prospect Theory in American Foreign Policy*. Ann Arbor: University of Michigan Press.

McGarry, John, and Brendan O’Leary. 2005. “Federation as a Method of Ethnic Conflict Regulation” In *From Power Sharing to Democracy: Post-conflict Institutions in Ethnically Divided Societies*, edited by Sid Noel, 263–296. Montreal & Kingston: McGill-Queen’s University Press.

McGarry, John, Brendan O’Leary, and Richard Simeon. 2008. “Integration or accommodation? The enduring Debate in Conflict Regulation.” In *Constitutional Design for Divided Societies: Integration Or Accommodation*?, edited by Sujit Choudhry, 41-90. Oxford: Oxford University Press.

McKenzie, Helen. 1984. “Western Alienation in Canada.” Current Issue Review. Library of Parliament. Research Branch. www.lop.parl.gc.ca/Content/LOP/ResearchPublicationsArchive/cir1000/8117-e.pdf

McKinlay, R. D., and A. S. Cohan (1976). “Performance and Instability in Military and Nonmilitary Regime Systems” *American Political Science Review* 70 (3): 850-864.

McMillan, Charles. 2007. “How Free Trade Came to Canada: Lessons in Policy Analysis.” Policy Options October. irpp.org/wp-content/uploads/assets/po/free-trade-20/mcmillan.pdf

Mehlum, Halvor, Karl Moene, and Ragnar Torvik. 2006. “Institutions and the Resource Curse.” *The Economic Journal* 116 (5): 1–20.

Meyer, Karl, and Shareen Brysac. 2010. “How British (Really) Is BP?” *New York Times*. June 17. www.nytimes.com/2010/06/17/opinion/17iht-edmeyer.html

Mining Association of Canada. 2014. “Facts & Figures of the Canadian Mining Industry 2014.” mining.ca/sites/default/files/documents/Facts_and_Figures_2014.pdf

Misau, Abubakar. 1989. “Fiscal Decentralization, Fiscal Equalization, and the Impact of Grants on State Government Expenditures: A Case Study of Nigeria.” PhD thesis, University of Leicester.

Mitchell, Robert, et al. 1998. “Alberta’s Oil Sands: Update on the Generic Royalty Regime.” Paper at the UNITAR International Conference on Heavy Crude and Tar Sands. October 27-31. https://open.alberta.ca/dataset/92b8c1c4-47d3-4c90-8d1d-e6ab32fcae08/resource/08229a1c-9b6a-4e7a-a3a2-7729a95cd770/download/OilSandsUnitar7th.pdf

Mobile Producing Nigeria Unlimited (MPNU). n.d. corporate.exxonmobil.com/en/company/worldwide-operations/locations/nigeria/about/mpn-overview

Morgan, Glenn, et al. 2010. “Introduction.” In *The Oxford Handbook of Comparative Institutional Analysis*, edited by Glenn Morgan et al., 1-11. Oxford: Oxford University Press.

Morrison, Kevin. 2010. “Oil, Conflict, and Stability.” Prepared for presentation at New York University, Wilf Family Department of Politics. http://politics.as.nyu.edu/docs/IO/14563/Morrison.pdf

Mueller, Dennis. 1997. “First-Mover Advantages and Path Dependence." *International Journal of Industrial Organization* 15: 827-50.

Mulroney, Brian. 2007. *Memoirs, 1939-1993*. Toronto: McClelland & Stewart Ltd.

Musa, Yakubu. 2002. “Nigeria: Kano Elders Kick Against New Onshore/Offshore Bill.” December 11. allafrica.com/stories/200212120121.html

Naanen, Ben. 1995. "Oil-producing Minorities and the Restructuring of Nigerian Federalism : The Case of the Ogoni People." *Journal of Commonwealth & Comparative Politics* 33 (1): 46-78.

Naiyeju, J. K. 2011. “Section 162 of the 1999 Constitution of the Federal republic of Nigeria: Implications and Challenges in Revenue Mobilization.” Being a paper presented at the retreat for members of the RMAFC held February 14-19. Uyo, Akwa Ibom State.

Nation, The. 2013. “Oil and Gas Operations: Rights and Obligations.” thenationonlineng.net/oil-and-gas-operations-rights-and-obligations/

National Assembly of Nigeria. 2004. “Allocation of Revenue (Abolition of Dichotomy in the Application of the Principle of Derivation) Act, 2004.” nass.gov.ng/document/download/5784

National Energy Board. 2014. “Market Snapshot: Canadian Crude Oil Imports Decline.” https://www.neb-one.gc.ca/nrg/ntgrtd/mrkt/snpsht/2014/11-01lmprt-eng.html

National Energy Board. 2017. “Crude Oil and Petroleum Products.” https://www.neb-one.gc.ca/nrg/sttstc/crdlndptrlmprdct/index-eng.html

Natural Resources Canada. 2016. “Prince Edward Island’s Shale and Tight Resources.” August 23. www.nrcan.gc.ca/energy/sources/shale-tight-resources/17712

Nemeth, Tammy. 2002. “Consolidating the Continental Drift: American Influence on Diefenbaker’s National Oil Policy.” *Journal of the Canadian Historical Association* 13 (1): 191-215.

Nemeth, Tammy. 2006. “1980: Duel of the Decade.” In *Alberta Formed—Alberta Transformed: Volume 2*, edited by Donald Weatherell, Cathy Cavanaugh, and Michael Payne, 677-702. Edmonton: university of Alberta Press.

New York Times. 1979. “B.P.'s Nigerian Oil Nationalized.” August 1. www.nytimes.com/1979/08/01/archives/bps-nigerian-oil-nationalized.html?mcubz=3

Newfoundland and Labrador Heritage Web Site. 2017. “Extracts from a Speech by C.F. Bennett at Placentia.” Colonial Office Records, Series 194, Vol. 178 (CO 194/178) Public Record Office, London. www.heritage.nf.ca/articles/politics/election-speeches.php

Newfoundland House of Assembly. 1982. Second Section Preliminary Unedited Transcript. vol 1. no. 8. May 19. www.assembly.nl.ca/business/hansard/ga39session1/May19-1982.pdf

Newton, A. C. 1964. “Offshore Exploration for Gas Under the Canadian Waters of the Great Lakes.” Ontario Department of Mines Geological Circular No. 7. Toronto: Frank Fogg. http://www.geologyontario.mndmf.gov.on.ca/mndmfiles/pub/data/imaging/S007/S007.pdf

Nielsen, Arne. 2012. *We Gambled Everything: The Life and Times of an Oilman*. Edmonton: University of Alberta Press.

Nigerian National Petroleum Corporation. 2010a. “History of the Nigerian Petroleum Industry.” www.nnpcgroup.com/NNPCBusiness/Businessinformation/OilGasinNigeria/IndustryHistory.aspx

Nigerian National Petroleum Corporation. 2010b. “Joint Venture Operations.”nnpcgroup.com/NNPCBusiness/UpstreamVentures.aspx

Nigerian National Petroleum Corporation. 2010c. “Development of Nigeria's Oil Industry.” http://www.nnpcgroup.com/NNPCBusiness/BusinessInformation/OilGasinNigeria/DevelopmentoftheIndustry.aspx

Nigerian National Petroleum Corporation (NNPC) and Academic Associates Peace Works (AAPW). 2004. “Report of the Nigeria Delta Youths Stakeholders Workshop.” Port-Harcourt. April. 15-17.

Nikiforuk, Andrew. 2010. *Tar Sands: Dirty Oil and the Future of a Continent*. Vancouver: Greystone Books.

Nikiforuk, Andrew. 2016. “Critics Slam Alberta's New Royalty Review as Policy Disaster.” thetyee.ca/News/2016/02/02/Alberta-Royalty-Review-Disaster/

Nkanga, Efem. 2002. “Na’abba Explains Speedy Passage of Onshore/Offshore Bill.” *ThisDay*. November 19. allafrica.com/stories/200211190193.html

Nkemjika & Salisu Matori. 2003. *Oil Exploration in Northern Nigeria: Problems and Prospects*. Lagos: Global Media Ltd.

Noronha, Ligia, and Nidhi Srivastava. 2012. “India.” In *Oil and Gas in Federal Systems*, edited by George Anderson, 121-156. Don Mills, Ontario: Oxford University Press.

Northouse, Peter. 2012. *Introduction to Leadership: Concepts and Practice*. Thousand Oaks, California: Sage Publications Inc.

Northrup, Terrell. 1989. “The Dynamic of Identity in Personal and Social Conflict.” In *Intractable Conflicts and Their Transformation*, edited by Louis Kriesberg, Terrell Northrup and Stuart Thorson, 55-82. Syracuse, New York: Syracuse University Press.

Nova Scotia Department of Energy, n.d. “Nova Scotia Offshore History Timeline - Full.” https://energy.novascotia.ca/sites/default/files/Nova%20Scotia%20Offshore%20History%20Timeline%20-%20FULL_0.pdf

Nwabuko, Chukwudi. 2003. “Nigeria: Onshore/Offshore Bill: Why National Assembly Can't Override Obasanjo's Veto.”ThisDay. http://allafrica.com/stories/200302160103.html

Nwankwo, Tony. 2000. “Nigeria: We Will Attack Oil Locations - Ijaws.” *Vanguard*. May 28. allafrica.com.login.ezproxy.library.ualberta.ca/stories/200005280118.html

Nwokeji, Ugo. 2007. “The Nigerian National Corporation and the Development of the Nigerian Oil and Gas Industry: History, Strategies, and Current Directions.” James A. Baker III Institute for Public Policy, Rice University, Houston, Texas.

Nwolise, Osisioma. 2005. How Military Ruined Nigeria’s Federalism. In *Nigerian Federalism in Crisis: Critical Perspectives and Political Options*, edited by E. Onwudiwe and R. Suberu. 114-126. Ibadan: PEFS.

Nwosu, Steve. “Nigeria: Why We Want Control of Our Oil Resources, by Ibori.” ThisDay July 18. allafrica.com/stories/200007190012.html

Nzeshi, Onwuka. 2002. “Nigeria: Onshore/Offshore: Veto will Cost Obasanjo South/South - Ibori.” *ThisDay*, December 16. allafrica.com.login.ezproxy.library.ualberta.ca/stories/200212160436.html.

O’Mahoney, Joseph. 2014. "Rule Tensions and the Dynamics of Institutional Change: From ‘To the Victor Go the Spoils’ to the Stimson Doctrine." *European Journal of International Relations* 20(3): 34–857.

Obasanjo, Olusegun. 2003. “Revenue Allocation Bill: Memo by President Federal Republic of Nigeria to Hon. Alhaji Bello Masari, Speaker House of Assembly.” In: House of Representatives, Federal Republic of Nigeria, Votes and Proceedings, No. 45, November 5. http://www.nassnig.org/document/download/5289

Obi, Cyril. 2001. “The Changing Forms of Identity Politics in Nigeria under Economic Adjustment: The Case of the Oil Minorities Movement of the Niger Delta.” Research Report no. 119, Uppsala: Nordiska Afrikainstitutet.

Obi, Cyril. 2004. “The Oil Paradox: Reflections on the Violent Dynamics of PetroPolitics and (Mis) Governance in Nigeria’s Niger Delta.” Africa Institute Occasional Paper No. 73.

Obi, Cyril. 2005. “Oil and Federalism in Nigeria.” In *Nigerian Federalism in Crisis: Critical Perspectives and Political Options*, edited by Ebere Onwudiwe and Rotimi Suberu, 187-204. Ibadan: Programme on Ethnic and Federal Studies//John Archers (Publishers) Limited.

Obi, Cyril. 2010. “Oil Extraction, Dispossession, Resistance, and Conflict in Nigeria’s Oil-Rich Niger Delta.” *Canadian Journal of Development Studies* 30: 1-2 (2010): 219-236.

Obi, Cyril. 2014. “Oil and Conflict in Nigeria’s Niger Delta Region: Between the Barrel and the Trigger.” *The Extractive Industries and Society* 1: 147–153.

Obi, Cyril. 2014 “‘Unscrambling’ the Struggle for Nigeria’s Oil: What Developmental Options for an Emerging ‘African Power’ in the 21st Century?” http://paperroom.ipsa.org/papers/paper_8510.pdf

Obi, Cyril, and Siri Rustad. 2011. “Introduction: Petro-violence in the Niger Delta-the Complex Politics of an Insurgency.” *In Oil and Insurgency in the Niger Delta: Managing the Complex Politics of Petroviolence*, edited by Cyril Obi and Siri Rustad. London; Uppsala: Zed Books; Nordiska Afrikainstitutet, 1-17.

Obydenkova, Anastassia, and Wilfried Swenden. 2013. “Autocracy-Sustaining Versus Democratic Federalism: Explaining the Divergent Trajectories of Territorial Politics in Russia.” *Territory, Politics, Governance* 1 (1): 86-112.

Odivwri, Eddy. 2002. “Nigeria: Niger Delta Govs Shun Parley with Obasanjo.” *ThisDay* (Lagos) December 14. allafrica.com.login.ezproxy.library.ualberta.ca/stories/200212140207.html

Offshore Energy Today. 2015. “Canada-Quebec Offshore Accord Moves Step Forward.” June 12. www.offshoreenergytoday.com/canada-quebec-offshore-accord-moves-step-forward/

Offshoretechnology.com. n.d. Hibernia, Canada. www.offshore-technology.com/projects/hibernia/

Ogbu, Ahamefula, and Lillian Okenwa. 2001. “Nigeria: States Want Onshore/Offshore Suit Struck Out.” *ThisDay*, May 22. http://allafrica.com/stories/200105220327.html

Ojameruaye, Emmanuel. 2002. "Dr. Macebuh and the Offshore/Onshore Oil Dichotomy Bill." Nigeriaworld. December 19. http://nigeriaworld.com/articles/2002/dec/191.html

Ojewale, Olu. 2001. “Nigeria: Battle Of The Elephants.” *Newswatch* (Lagos). March 5. allafrica.com.login.ezproxy.library.ualberta.ca/stories/200103050148.html

Ojo, Emmanuel. 2010. “The Politics of Revenue Allocation and Resource Control in Nigeria: Implications for Federal Stability.” *Federal Governance* (7)1: 15-38.

Ojukwu, Chukwuemeka. 1969. *Biafra: Selected Speeches and Random Thoughts of Chukwuemeka Odumegwu Ojukwu*. New York: Harper & Row.

Okocha, Chuks. 2002. “Nigeria: Obasanjo Vetoes Onshore/ Offshore Bill.” *ThisDay,* December 12. allafrica.com/stories/200212130083.html

Okonta, Ike. 2013. “Nigeria: Policy Incoherence and the Challenge of Energy Security.” In *The Handbook of Global Energy Policy*, edited by Andreas Goldthau, 501-520. West Sussex: Wiley Blackwell.

Okonta, Ike, and Oronto Douglas. 2003. *Where Vultures Feast: Shell, Human Rights, and Oil in the Niger Delta*. London: Verso.

Okpowo, Blessyn. 2004. “Nigeria: Onshore/Offshore Abrogation Law: This is Victory for Democracy Says--Igbinedion Interview. “Vanguard. February 21. http://allafrica.com/stories/200402230181.html

Oliver, Joe. 2012. “Canada's Natural Resources – Canada’s Opportunity.” Keynote Address at the 2012 Energy and Mines Ministers Conference. September 10, Charlottetown, PEI.http://www.nrcan.gc.ca/media-room/speeches/2012/6499

Oliver, Joe. 2016. “Why Equalization No Longer Works.” *Financial Post*. February 10, 2016. http://business.financialpost.com/fp-comment/joe-oliver-why-equalization-no-longer-works

Ologbodiyan, Kola, and Omo Julius-Onabu. 2001. “Nigeria: Southern Governors Plan Counter Suit Against Federal Government.” ThisDay. March 28. allafrica.com/stories/200103280319.HTML

Oluwabamide, Abiodun. 2013. “Language Diversity in Nigeria: An Appraisal of a Cultural Heritage” *Internet Journal of Language, Culture and Society*. http://aaref.com.au/en/publications/journal/

Omeje, Kenneth. 2004. “The State, Conflict & Evolving Politics in the Niger Delta.” *Review of African Political Economy* 31 (101): 425-440.

Omeje, Kenneth. 2006. *High Stakes and Stakeholders: Oil Conflict and Security in Nigeria*. Aldershot, Hampshire and Burlington, VT: Ashgate.

Omorogbe, Yinka. 1987. “The Legal Framework for the Production of Petroleum in Nigeria” *Energy and Natural Resources* 5 (4): 273-291.

Onoh, J. 1983. *The Nigerian Oil Community: From Prosperity to Glut*. New York: St. Martins Press.

Onuoha, Freedom. 2016. “The Resurgence of Militancy in Nigeria’s Oil-Rich Niger Delta and the Dangers of Militarisation.” June 8. *Aljazeera Centre for Studies*. studies.aljazeera.net/en/reports/2016/06/resurgence-militancy-nigerias-oil-rich-niger-delta-dangers-militarisation-160608065729726.html#a4

Onyekonwu, Mike. 2007. “Nigeria Gas Issues.” Paper at Nigeria Gas Workshop. February 5-7, Abuja. www.beg.utexas.edu/energyecon/abuja_07_workshop/NIGERIA%20GAS%20ISSUES%20(Prof.%20Onyekonwu).pdf

Oriola, Temitope. 2013. *Criminal Resistance? The Politics of Kidnapping Oil Workers*. New York: Routledge.

Orren, Karen, and Stephen Skowronek. 2004. *The Search for American Political Development*. Cambridge: Cambridge University Press.

Osaghae, Eghosa. 1985. “Structural Adjustment and Ethnicity in Nigeria.” Uppsala: Nordiska Afrikainstitutet. Research Report no. 98.

Osaghae, Eghosa. 1990. “A Reassessment of Federalism as a Degree of Decentralization.” *Publius: The Journal of Federalism* 20 (1): 83–98.

Osaghae, Eghosa. 1994. “Interstate Relations in Nigeria.” *Publius: The Journal of Federalism* 24 (Fall): 83-98.

Osaghae, Eghosa. 1995. “The Ogoni Uprising: Oil Politics, Minority Agitation and the Future of the Nigerian State.” *African Affairs* (94 (376): 325-344.

Osaghae, Eghosa. 1998. *Crippled Giant: Nigeria Since Independence*. London: Hurst.

Osaghae, Eghosa. 2001. “From Accommodation to Self-determination: Minority Nationalism and the Restructuring of the Nigerian State.” *Nationalism and Ethnic Politics* 7 (1):1-20, DOI: 10.1080/13537110108428618.

Osaghae, Eghosa. 2005a. “Foreword.” In *Nigerian Federalism in Crisis: Critical Perspectives and Political Options*, edited by Ebere Onwudiwe and Rotimi Suberu, v-ix. Ibadan: Programme on Ethnic and Federal Studies/John Archers (Publishers) Limited.

Osaghae, Eghosa. 2015a. “Nigeria: Devolution to Mitigate Conflict in the Niger Delta.” In *Constitutions and Conflict Management in Africa: Preventing Civil War Through Institutional Design*, edited by Alan Kuperman, 71-95. Philadelphia: University of Pennsylvania Press.

Osaghae, Eghosa. 2015b. “Nigeria: Struggling to Formalize and Decentralize Intergovernmental Relations.” In *Intergovernmental Relations in Federal Systems: Comparative Structures and Dynamics*, edited by Johanne Poirier, Cheryl Saunders, and John Kincaid, 272-304. Oxford: Oxford University Press.

Owete, Felix. 2014. “Between Jonathan’s National Conference and Obasanjo’s National Political Reform Conference: What You Need to Know.” *Premium Times*. February 16. http://www.premiumtimesng.com/news/155237-between-jonathans-national-conference-and-obasanjos-national-political-reform-conference.htm

Owram, Doug. 1991. “Meech Lake: The Debacle Revisited.” *Constitutional Forum* 2 (2): 23-25.

Oyetunji, Nuratu. 2016. “North-east’s Chad Basin and the Politics of Oil Discovery.” *Economic Confidential* (Abuja). June. economicconfidential.com/2016/06/north-easts-chad-basin-politics-oil-discovery/

Oyovbaire, Sam. 1985. *Federalism in Nigeria*. London: Macmillan.

Oyovbaire, Sam. 1978. "The Politics of Revenue Allocation." In *Soldiers and Oil: The Political Transformation of Nigeria*, edited by Samuel Panter-Brick, 238-243. London: Routledge.

Papillon, Martin. 2012a. "Canadian Federalism and the Emerging Mosaic of Aboriginal Multilevel Governance." In *Canadian Federalism: Performance, Effectiveness, and Legitimacy*, edited by Herman Bakvis, Grace Skogstad, 284-301. Oxford: Oxford University Press.

Papillon, Martin. 2012b. "Adapting Federalism: Indigenous Multilevel Governance in Canada and the United States.*" Publius: The Journal of Federalism* 42 (2): 289-312.

Parker, James, and Kenneth Tingley. 1980. "History of the Athabasca Oil Sands Region, 1890 to1960's. Volume1: Socio-Economic Developments." Alberta Oil Sands Environmental Research Program. Project HS 10.2. https://era.library.ualberta.ca/files/rb68xd26f/HS 10.2 Sept 1980.pdf

Parlee, Brenda. 2015. "Avoiding the Resource Curse: Indigenous Communities and Canada's Oil Sands." *World Development* 74: 425–436.

Parliament of Canada. 2004. "Equalization." TIPS-109E. June 29. www.lop.parl.gc.ca/Content/LOP/ResearchPublications/tips/tip109-e.htm

Parra, Francisco. 2004. *Oil Politics: A Modern History of Petroleum*. London: I.B. Tauris.

Parsons, L. 1993. "Management of Marine Fisheries in Canada." Canadian Bulletin of Fisheries and Aquatic Sciences No. 225.

Patton, Michael. 1990. *Qualitative Research & Evaluation Methods: Integrating Theory and Practice*. Beverly Hills, CA: SAGE Publications, Inc.

Pearson, Scott. 1970. *Petroleum and the Nigerian Economy*. Stanford: Stanford University Press.

Pearson, Scott. 1971. "The Economic Imperialism of the Royal Niger Company." *Food Research Institute Studies* 10 (1): 69-88.

Peckford, Brian. 2012. *Some Day the Sun Will Shine and Have Not Will Be No More*. St. John's, NL: Flanker Press.

Peters, Guy. 2012. *Institutional Theory in Political Science: The New Institutionalism*. London: The Continuum International Publishing Group.

Peters, Guy, Jon Pierre, and Desmond King. 2005. "The Politics of Path Dependency: Political Conflict in Historical Institutionalism." *The Journal of Politics* 67 (4):1275–1300.

Petersohn, Bettina, Nathalie Behnke, and Eva Maria Rhode. 2015. "Negotiating Territorial Change in Multinational States: Party Preferences, Negotiating Power and the Role of the Negotiation Mode" *Publius: the Journal of Federalism* 45 (4): 626-652.

Petroleum Equalization Fund. n.d. Welcome to Petroleum Equalisation Fund (Management) Board. www.pefmb.gov.ng

Phillips, Adedotun. 1971. "Nigeria's Federal Financial Experience." *The Journal of Modem African Studies* 9 (3): 389-408.

Pickvance, Christopher. 2001. "Four Varieties of Comparative Analysis." *Journal of Housing and the Built Environment* 16 (1): 7-28.

Pierson, Paul. 1998. “The Path to European Integration: A Historical Institutionalist Analysis.” In *European Integration and Supranational Governance,* edited by Wayne Sandholtz and Alec Stone Sweet, 27-58. Oxford: Oxford University Press.

Pierson, Paul. 2000. “Not Just What, but When: Timing and Sequence in Political Processes.” *Studies in American Political Development* 14 (1): 72-92.

Pierson, Paul. 2001. “Coping with Permanent Austerity: Welfare State Restructuring in Affluent Democracies.” In *The New Politics of the Welfare State*, edited by Paul Pierson, 410-456. Oxford: Oxford University Press.

Pierson, Paul. 2004. *Politics in Time: History, Institutions and Social Analysis*. Princeton and Oxford: Princeton University Press.

Pinder, John. 2007. “Multinational Federations: Introduction.” In *Multinational Federations*, edited by Michael Burgess and John Pinder, 1-16. Abingdon, Oxon: Routledge.

Pinto, Brian. 1987. “Nigeria During and After the Oil Boom: A Policy Comparison with Indonesia.” *The World Bank Economic Review* 1 (3): 419-445.

Plourde, André. 2006. “Offshore Energy Revenues and Equalization: Having your Cake and Eating It Too?” In How Ottawa Spends, 2006-2007: In From the Cold: The Tory Rise and the Liberal Demise , edited by Bruce Doern, 50-72. McGill-Queen’s University Press.

Plourde, André. 2012. “Canada.” In *Oil and Gas in Federal Systems*, edited by George Anderson, 88-120. Don Mills, Ontario: Oxford University Press.

Poirier, Johanne. 2004. “Intergovernmental Agreements in Canada: At the Crossroads between Law and Politics.” In *Canada: The State of the Federation 2002*, edited by Peter Meekison, Hamish Telford, and Harvey Lazar, 425-462. Montreal/Kingston: McGill-Queen’s University Press.

Pollard, Bruce. 1986. “Canadian Energy Policy in 1985: Toward a Renewed Federalism?” *Publius: The Journal of Federalism* 16 (3): 163–174.

Pontusson, Jonas. 1995. “From Comparative Public Policy to Political Economy: Putting Political Institutions in Their Place and Taking Interests Seriously.” *Comparative Political Studies* 28 (1): 117-47.

Pratt, Larry. 1976. *The Tar Sands: Syncrude and the Politics of Oil*. Edmonton: Hurtig Publishers.

Pratt, Larry. 1981. “Whose Oil is It?” In *Western Separatism: The Myths, Realities & Dangers*, edited by Larry Pratt and Garth Stevenson, 155-172. Edmonton: Hurtig Publishers.

Premier’s Office Nova Scotia. 2001. “Campaign for Fairness Goes to Ottawa.” February 6. https://novascotia.ca/news/release/?id=20010206007

Premium Times. 2016. "Nigeria Loses 100kg of Gold Daily to Illegal Miners – Fayemi." April 3. www.premiumtimesng.com/news/more-news/201196-nigeria-loses-100kg-gold-daily-illegal-miners-fayemi.html

Prince of Wales Northern Heritage Centre. 2017. Territorial Evolution of the Northwest Territories. http://www.pwnhc.ca/territorial-evolution-of-the-northwest-territories/

Privy Council Office. 1964. “Submission on Submarine Mineral Rights by Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland.” Federal-Provincial Conference. October 14-15. https://primarydocuments.ca/api/text/filename/1stMinistersConfOttawa1964Oct14.txt

Province of Canada. 1854. “Statutes of the Province of Canada. Part 1.” Quebec: Steward Derbishire & George Desbarats.

Putnam, Linda. 2009. “Conflict Management and Mediation.” In *21st Century Communication: A Reference Handbook*, edited by William Eadie, 211-219.Thousand Oaks, CA: SAGE Publications, Inc.

Putnam, Linda, and Martha Shoemaker. 2007. Changes in Conflict Framing in the News Coverage of an Environmental Conflict. Journal of Dispute Resolution.
http://scholarship.law.missouri.edu/jdr/vol2007/iss1/10

Quebec Commission on Fiscal Imbalance. 2001. “Federal Transfer Programs to the Provinces.” Background Paper for Public
Consultation. www.groupes.finances.gouv.qc.ca/desequilibrefiscal/en/pdf/federal_transfer.pdf

Quebec Resolutions. 1864. October. https://www.collectionscanada.gc.ca/confederation/023001-7104-e.html

Ragin, Charles. 1992. “‘Casing’ and the Process of Social Inquiry.” In *What Is a Case?: Exploring the Foundations of Social Inquiry*, edited by Charles Ragin and Howard Becker, 217-226. Cambridge: Cambridge University Press.

Reference Re Mineral and Other Natural Resources of the Continental Shelf. 1983. Newfoundland Court of Appeal.

Reference Re Offshore Mineral Rights of British Columbia. 1967. Supreme Court of Canada.

Reference Re Ownership of the Bed of the Strait of Georgia and Related Areas. 1984. Supreme Court of Canada.

Reference Re Property in and Legislative Jurisdiction over the Seabed and Subsoil of the Continental Shelf Offshore Newfoundland. 1984. Supreme Court of Canada.

Rennie, Bradford. 2006. “From Idealism to Pragmatism: 1923 in Alberta.” In *Alberta Formed—Alberta Transformed: Volume 2*, edited by Donald Grant Weatherell, Cathy Cavanaugh, and Michael Payne, 443-462. Edmonton: university of Alberta Press.

Report by the Resumed Nigeria Constitutional Conference, Held in London in September and October, 1958. Presented to Parliament by the by Command of Her Majesty, November 1958. Great Britain, Colonial Office. London: HMSO.

Report of the Royal Commission on the Natural Resources of Alberta. 1935. Ottawa: J.O. Patenaude: Printer to the King’s Most Excellent Majesty.

Reuters. 2016. “BRIEF-Exxon Mobil Announces Significant Oil Discovery Offshore Nigeria.” October 27. www.reuters.com/article/idUSASC09DRK

Richards, John, and Larry Pratt. 1979. *Prairie Capitalism*. Toronto: McClelland and Stewart

Riker, William. 1964. *Federalism: Origin, Operation, Significance*. Boston: Little, Brown.

Robinson, James, Ragnar Torvik, and Thierry Verdier. 2006. “Political Foundations of the Resource Curse.” *Journal of Development Economics* 79: 447-468.

Rocco, Phillip, and Chloe Thurston. 2014. “From Metaphors to Measures: Observable Indicators of Gradual Institutional Change.” *Journal of Public Policy* 34(1): 35-62.

Rodden, Jonathan. 2006. *Hamilton's Paradox: The Promise and Peril of Fiscal Federalism*. Cambridge: Cambridge University Press.

Rodden, Jonathan, and Erik Wibbels. 2002. “Beyond the Fiction of Federalism: Macroeconomic Management in Multitiered Systems.” *World Politics* 54 (4): 494-531.

Rodden, Jonathan and Erik Wibbels. 2010. “Dual Accountability and the Nationalization of Party Competition: Evidence from Four Federations.” *Party Politics* 18(5): 667–685.

Rodrik, Dani. 2014. “When Ideas Trump Interests: Preferences, Worldviews, and Policy Innovations.” *Journal of Economic Perspectives* 28 (1): 189-208.

Roeder, Philip. 2009. “Ethnofederalism and the Mismanagement of Conflicting Nationalisms.” *Regional and Federal Studies* 19 (2): 203-219.

Romanowska, Atrycja. 2009. “Political Penalty.” *Alberta Oil Magazine*. February 2. www.albertaoilmagazine.com/2009/02/political-penalty/

Romney, Paul. 1992. “The Nature and Scope of Provincial Autonomy: Oliver Mowat, the Quebec Resolution and the Construction of the British North America Act.” *Canadian Journal of Political Science* XXV (1): 3-28.

Ross, Cameron. 2007. “Russia's Multinational Federations: From Constitutional to Contract Federalism and the ‘War of Laws and Sovereignties.’” in *Multinational Federations* edited by Michael Burgess, and John Pinder, 108-126. Abingdon, Oxon: Routledge.

Ross, Michael L. 2000. “Nigeria’s Oil Sector and the Poor.” Paper prepared for DFID. www.sscnet.ucla.edu/polisci/faculty/ross/papers/other/NigeriaOil.pdf.

Ross, Michael. 2008. “Blood Barrels: Why Oil Wealth Fuels Conflict.” *Foreign Affairs*. http://www.foreignaffairs.com/articles/63396/michael-l-ross/blood-barrels

Ross, Michael. 2012. *The Oil Curse: How Petroleum Wealth Shapes the Development of Nations*. Princeton: Princeton University Press.

Rothchild, Donald, and Robert Curry, Jr. 1978. *Scarcity, Choice, and Public Policy in Middle Africa*. Los Angeles: University of California Press Berkeley.

Rothstein, Bo. 1996. “Political Institutions: An Overview.” In *A New Handbook of Political Science*, edited by Goodin, Robert and Hans-Dieter Klingemann, 133-153. Oxford: Oxford University Press.

Roy, Denis. 2012. “The Legal Continental Shelf: The Surprising Canadian Practice Regarding Oil and Gas Development in the Atlantic Coast Continental Shelf.” *Alberta Law Review* 50 (1): 65-93.

Roy, Jim. 2015. *Billions Foregone: The Decline in Alberta Oil and Gas Royalties*. April 23. www.parklandinstitute.ca/billions_foregone

Rupley, Lawrence. 1981. "Revenue Sharing in the Nigerian Federation." *The Journal of Modern African Studies* 19 (2): 257-27.

Russell, Peter. 1987. *Leading Constitutional Decisions*. Ottawa: Carleton University Press.

Russell, Peter. 2017. "Foreword." In *Courts in Federal Countries: Federalists or Unitarists?*, edited by Nicholas Theodore Aroney and John Kincaid, VII-X. Toronto: University of Toronto Press.

Sagay, Itsey. 2002. "Nigeria Federalism, the Constitution, and Resource Control." unpub.wpb.tam.us.siteprotect.com/var/m_f/fa/fa2/22697/235469-nigeria_federalism_.pdf

Sagay, Itsey. 2004a. "Nigerian Constitutions, Operation of Federalism and the Niger Delta." www.profitsesagay.com/pdf/NIGERIAN%20CONSTITUTIONS,%20OPERATION%20%20OF%20THE%20FEDERALISM%20AND%20THE%20NIGER%20DELTA.pdf

Sagay, Itsey. 2004b. "The Abolition of Onshore/Offshore Dichotomy Act: Not Yet Uhuru." www.profitsesagay.com/pdf/200%20METRES%20ISOBATH.pdf

Sahadevan, P. 1997. "Resistance to Resolution: Explaining the Intractability of Ethnic Conflict in Sri Lanka" *International Journal of Group Tensions* 27(1): 19-40.

Sahara Reporters. 2012. "FG Worried Over Renewed Onshore/Offshore Dichotomy Debate." August 22. saharareporters.com/2012/08/22/fg-worried-over-renewed-onshoreoffshore-dichotomy-debate

Sarumi, Sule. 1982. "The Controversy on the Appropriate Revenue Sharing Formula Among the States In Nigerian Federation." MPA Thesis, University of Montana.

Saunders, Phillip and Richard Finn. 2006. "Property Rights in Canadian Aquaculture: A Principled Approach." In *Aquaculture Law and Policy: Towards Principled Access and Operations*, edited by David VanderZwaag and Gloria Chao, 115-170. New York: Routledge.

Savoie, Donald. 1992. *Regional Economic Development: Canada's Search for Solutions*. Toronto: University of Toronto Press.

Scacco, Alexandra. 2013. "Nigeria." In *Case Studies in Comparative Politics*, 320-364, edited by David Samuels. London: Pearson and Longman.

Schaefer, Keith. 2016. "Trump's 'America First' Energy Plan Means… Canada." Oil and Gas Investments Bulletin. November 21. https://oilandgas-investments.com/2016/latest-reports/trumps-america-first-energy-plan-means-canada/

Schätzl, Ludwig. 1969. *Petroleum in Nigeria*. Ibadan: Nigerian Institute of Social and Economic Research.

Schätzl, Ludwig. 1971. "Contributions of the Crude Oil Industry to the Nigerian Economy." In *Reconstruction and Development in Nigeria: Proceeds of a National Conference*, edited by Alison Ayida and H. Onitiri, 600-607. Ibadan. NISER.

Schempf, Jay. 2004. "The history of offshore: Developing the E&P infrastructure." *Offshore Magazine*. January 1, 2004. www.offshore-mag.com/articles/print/volume-64/issue-1/news/special-report/special-anniversary-the-history-of-offshore-developing-the-ep-infrastructure.html

Schmidt, Vivian. 2008. "Discursive Institutionalism: The Explanatory Power of Ideas and Discourse." *Annual Review of Political Science 11*: 303-32.

Schmidt, Vivian. 2010. Taking Ideas and Discourse Seriously: Explaining Change through DiscursiveInstitutionalism as the Fourth 'New Institutionalism." European Political Science Review 2 (1): 1-25.

Scholz, John. 2006. “A Book Review: Designing Federalism: A Theory of Self-Sustainable Federal Institutions, by Mikhail Filippov, Peter C. Ordeshook, and Olga Shvetsova.” *Publius: The Journal of Federalism* 36 (3): 461–469.

Scott, Anthony. 1980. “Divided Jurisdiction over Natural Resources.” Institute of Intergovernmental Relations (IIGR) Queen’s University, Kingston, Ontario. Discussion Paper No. 10.

Scott, James. 1916. “Introductory Note.” In Hugo Grotius, *The Freedom of the Seas, or the Right Which Belongs to the Dutch to take part in the East Indian Trade*. Translated by Ralph Van Deman Magoffin. New York: Oxford University Press. http://oll.libertyfund.org/titles/552>

Seskus, Tony. 2014. “Calgary Goes ‘Oil Crazy' After Dingman Discovery.” *Calgary Herald*. May 5. http://www.calgaryherald.com/business/Part+Calgary+goes+crazy+after+Dingman+discovery/9811700/story.html oil industry.

Shah, Anwar. 1996. “A Fiscal Need Approach to Equalization.” *Canadian Public Policy* XXII (2): 99-115.

Shell Petroleum Development Company of Nigeria. 2017. “About Us." www.shell.com.ng/about-us/what-we-do/spdc.html

Sheppard, Mary. 1989. *Oil Sands Scientist: The Letters of Karl A. Clark, 1920-1949*. Edmonton: University of Alberta Press / Alberta Culture and Multiculturalism.

Shuaib, Yushau. 2003. The Politics of Revenue Allocation Formula. *Daily Times*. November 18. yashuaib.com/2003/12/the-politics-of-revenue-allocation-formula/

Shuaib, Yushau. 2006. “Understanding the New Revenue Formula.” *Daily Trust* (Abuja). September 7. yashuaib.com/2006/10/understanding-the-new-revenue-formula/

Siekierski, BJ. 2017. “Bernier Calls for a Freeze on Equalization Payments.” *iPolitics*. February 2. ipolitics.ca/2017/02/02/bernier-calls-for-a-freeze-on-equalization-payments/

Simeon, Richard. 1972. *Federal-Provincial Diplomacy: The Making of Recent Policy in Canada*. Toronto: University of Toronto Press.

Simeon, Richard. 1980. “Natural Resource Revenues and Canadian Federalism: A Survey of the Issues.” *Canadian Public Policy* 6: 182-191.

Simeon, Richard. 2004. “Canada: Federalism, Language, and Regional Conflict.” In *Federalism and Territorial Cleavages*, edited by Ugo Amoretti and Nancy Bermeo, 93-122. Baltimore: Johns Hopkins University Press.

Simeon, Richard. 2005. ‘Combining the Agendas: Federalism and Democracy.” Democracy and Federalism Series. IIGR, School of Policy Studies, Queen’s University.

Simeon, Richard, and Beryl Radin. 2010. “Reflections on Comparing Federalisms: Canada and the United States.” *Publius: The Journal of Federalism* 40 (3): 357-365.

Simeon, Richard, and Martin Papillon. 2006. “Canada.” In *Distribution of Powers and Responsibilities in Federal Countries: A Global Dialogue on Federalism* (volume 2), edited by Akhtar Majeed, Ronald Watts, and Douglas Brown, 91-122. Montreal and Kingston: McGill-Queen's University Press.

Simpson, Jeffrey. 2009. “Danny Williams, King of Newfoundland, Reigns Supreme.” *The Globe and Mail*. November 30. https://www.theglobeandmail.com/opinion/danny-williams-king-of-newfoundland-reigns-supreme/article4310914/

Skeet, Ian. 1988. *OPEC: Twenty-Five Years of Prices and Politics*. Cambridge: Cambridge University Press.

Slater, Dan, and Erica Simmons. 2010. "Informative Regress: Critical Antecedents in Comparative Politics" *Comparative Political Studies 43*(7): 886-917.

Smiley, Donald. 1984. "Federal States and Federal Societies, With Special Reference to Canada" *International Political Science Review* 5 (4): 443-454.

Smiley, Donald. 1972. *Canada in Question: Federalism in the Seventies*. Toronto: McGraw-Hill Ryerson Limited.

Smiley, Donald. 1979. "An Outsider's Observation of Federal-Provincial Relations Among Consenting Adults." In *Confrontation and Collaboration: Intergovernmental Relations in Canada Today*, edited by Richard Simeon, 105-113. Toronto: The Institute of Public Administration in Canada.

Smith, Brian. 1981. "Federal-State Relations in Nigeria." *African Affairs* 80 (320): 355-378.

Smith, Jennifer. 2004. *Federalism: Volume 4 of the Canadian Democratic Audit*. Vancouver: UBC Press.

Smith, Jennifer. 2008. "Intergovernmental Relations, Legitimacy, and the Atlantic Accords" *Constitutional Forum* 17 (1, 2, & 3): 81-98.

Smith, Robert Sydney. 1979. *The Lagos Consulate, 1851-1861*. Berkeley and Los Angeles: University of California Press.

Smith, Rogers. 2006. "Which Comes First, the Ideas, or the Institutions?" In *Rethinking Political Institutions: The Art of the State*, edited by Ian Shapiro, Stephen Skowronek, Daniel Galvin, 91- New York: new York University Press.

Smith, Peter. 1991. "The Politics of Plenty: Investing Natural Resource Revenues in Alberta and Alaska" *Canadian Public Policy* XVII (2):139-154.

Snow, David, and Robert D. Benford. 1988. "Ideology, Frame Resonance and Participant Mobilization." *International Social Movement Research* 1: 197-217.

Snow, David, et al. 1986. "Frame Alignment Processes, Micromobilization, and Movement Participation." *American Sociological Review* 51(4): 464-481.

Speed, Edwin. 1902. *Ordinances and Orders and Rules Thereunder in Force in the Colony of Lagos (Colony Laws)*. Vol. II. London: Stevens and Sons, Limited.

Spiro, Peter. 2012. "Petrodollar really a Loonie Bubble." *Financial Post*. August 29. http://opinion.financialpost.com/2012/08/29/petrodollar-really-a-loonie-bubble/

Spiro, Peter. 2013. "More Stability, Please. A New Policy Approach to Canada's Exchange Rate." Mowat Centre. April 9. https://mowatcentre.ca/more-stability-please/

Starr, Richard. 2011. *Power Failure?* Halifax: Formac Publishing Company Limited.

Library and Archives Canada. 2005. "An Act to Establish and Provide for the Government of the Province of Alberta" (Alberta Act). www.collectionscanada.gc.ca/confederation/023001-7100-e.html#AlbertaSask

Stepan, Alfred. 1999. "Federalism and Democracy: Beyond the U.S. Model." *Journal of Democracy* 10 (4): 19-34.

Stepan, Alfred. 2004. “Toward a New Comparative Politics of Federalism.” In *Federalism and Democracy in Latin America*, edited by Edward Gibson, 29-84. Baltimore, Maryland: The Johns Hopkins University Press.

Stevenson, Garth. 1981. “The Political Economy Tradition and Canadian Federalism.” *Studies in Political Economy: A Socialist Review* 6 (1): 113-133.

Stevenson, Garth. 2007. “Fiscal Federalism and the Burden of History.” Selected Proceedings from the Conference on Fiscal Federalism and the Future of Canada. September 28-29, 2006. www.queensu.ca/iigr/sites/webpublish.queensu.ca.iigrwww/files/files/WorkingPapers/fiscalImb/Stevenson.pdf

Stevenson, Garth. 2009. *Unfulfilled Union: Canadian Federalism and National Unity*. Montreal & Kingston: McGill-Queen’s University Press.

Steward, Gillian. 2015. “Alberta’s Politics and Petroleum Companies are Deeply Entwined.” Toronto Star's Atkinson Series. August 25. www.thestar.com/news/atkinsonseries/2015/08/28/albertas-politics-and-petroleum-companies-are-deeply-entwined.html

Steyn, Phia. 2009. “Oil Exploration in Colonial Nigeria, c. 1903–58.” *The Journal of Imperial and Commonwealth History* 37 (2): 249–274.

Streeck, Wolfgang. 2009. *Re-Forming Capitalism: Institutional Change in the German Political Economy*.

Streeck, Wolfgang, and Kathleen Thelen. 2005. “Introduction: Institutional Change in Advanced Political Economies.” In *Beyond Continuity: Institutional Change in Advanced Political Economies*, edited by Wolfgang Streeck and Kathleen Thelen, 1-39. Oxford: Oxford University Press.

Suarez, Suzette. 2008. *The Outer Limits of the Continental Shelf: Legal Aspects of their Establishment*. New York: Springer.

Suberu, Rotimi. 1996. *Ethnic Minority Conflicts and Governance in Nigeria*. Ibadan: Spectrum Books/IFRA.

Suberu, Rotimi. 2001. *Federalism and Ethnic Conflict in Nigeria*. Washington, DC: United States Institute of Peace Press.

Suberu, Rotimi. 2004. “Pseudo-Federalism and the Political Crisis of Revenue Allocation.” In *Nigeria's Struggle for Democracy and Good Governance: A Frstschrift for Oyeleye Oyediran*, edited by Adigun Agbaje, Larry Diamond, and Ebere Onwudiwe. Ibadan: University Press.

Suberu, Rotimi. 2006. “Nigerian Federalism—Genie in a Botttle?” *Democracy at Large* 2 (2): 16-19.

Suberu, Rotimi. 2008. “The Supreme Court and Federalism in Nigeria.” *Journal of Modern African Studies* 46 (3): 451-485.

Suberu, Rotimi. 2010. “Nigeria.” In *Diversity and Unity in Federal Countries*, edited by Luis Moreno and César Colino, 227-257. Montreal: McGill-Queens University Press.

Suberu, Rotimi. 2015. “Managing Constitutional Change in the Nigerian Federation.” *Publius: The Journal of Federalism* 45 (4): 552–579.

Suberu, Rotimi. 2017. “The Supreme Court of Nigeria: An Embattled Judiciary More Centralist than Federalist.” In *Courts in Federal Countries: Federalists or Unitarists?*, edited by Nicholas Theodore Aroney and John Kincaid, 290-327. Toronto: University of Toronto Press.

Sunday Punch. 2005. "Resource Control Controversy, We'll No Longer Restrain our Youths – David Ejoor, Former Military Governor, Defunct Mid-West Region." July 3.

Supreme Court of Nigeria. 2002. "Attorney-General of the Federation versus Attorney-General of Abia State & 35 Ors." April 5. http://judgment.supremecourt.gov.ng/pdf.php?case_id=101

Swan, George. 1976. "The Newfoundland Offshore Claims: Interface of Constitutional Federalism and International Law." *McGill Law Journal* 122 (4): 541-573.

Taber, Jane, Shawn McCarthy, and Robert Fife. 2016. "Trudeau Supports Notley on Energy East Pipeline." *The Globe and Mail*. Jan. 22. http://www.theglobeandmail.com/news/politics/montreal-area-mayors-energy-east-criticisms-short-sighted-notley-says/article28339330/

Tarrow, Sidney. 2010. "The Strategy of Paired Comparison: Toward a Theory of Practice." *Comparative Political Studies* 43(2): 230–259.

Tattrie, Jon. 2015. "Confederation's Opponents." http://www.thecanadianencyclopedia.ca/en/article/confederations-opponents/

Thelen, Kathleen. 1999. "Historical Institutionalism in Comparative Politics." *Annual Review of Political Science* 2: 369-404.

Thelen, Kathleen. 2000. "Timing and Temporality in the Analysis of Institutional Evolution and Change." *Studies in American Political Development* 14 (1): 101-108.

Thelen, Kathleen. 2004. *How Institutions Evolve. The Political Economy of Skills in Germany, Britain, the United States and Japan.* Cambridge: Cambridge University Press.

Thelen, Kathleen. 2010. "Beyond Comparative Statics: Historical Institutional Approaches to Stability and Change in the Political Economy of Labour." In *The Oxford Handbook of Comparative Institutional Analysis*, edited by Glenn Morgan, John L. Campbell, Colin Crouch, Ove Kaj Pedersen, and Richard Whitley, 41-62. Oxford: Oxford University Press.

Thelen, Kathleen, and Sven Steinmo. 1992. "Historical institutionalism in Comparative Politics' in *Structuring Politics: Historical Institutionalism in Comparative Analysis*, edited by Sven Steinmo, Kathleen Thelen and Frank Longstreth, 1-32. Cambridge: Cambridge University Press.

Thomas, Lewis. 1959. *The Liberal Party in Alberta: A History of Politics in the Province of Alberta, 1905-1921*. Toronto: University of Toronto Press.

Thompson, Andrew. 1999. "Resource Rights." *The Canadian Encyclopedia*. http://www.thecanadianencyclopedia.com/articles/resource-rights

Thorlakson, Lori. 2000. "Government Building and Political Development in Federations: Applying Canadian Theory to the German Case." *Regional & Federal Studies* 10 (3): 129-48.

Thorlakson, Lori. 2013. "Dynamics of Change in Federal Representation." In *Federal Dynamics: Continuity, Change and Varieties of Federalism*, edited by Arthur Benz and Jörg Broschek, 229-248. Oxford: Oxford University Press.

Thring, David. 1979. "Alberta: Oil and the Constitution." *Al*berta Law *Review* XVII: 69-90.

Tignor, Robert. 1998. *Capitalism and Nationalism at the End of Empire: State and Business in Decolonizing Egypt, Nigeria, and Kenya, 1945-1963*. New Jersey: Princeton University Press.

Tillin, Louise. 2015. “Explaining Territorial Change in Federal Democracies: A Comparative Historical Institutionalist Approach.” *Political Studies* 63: 626–641.

Toronto Star. 2007. “Offshore Deal with N.S. Angers Williams.” October 10. www.thestar.com/news/canada/2007/10/10/offshore_deal_with_ns_angers_williams.html

Trudeau, Pierre. 1968a. “Dominion-Provincial Relations Statement Respecting Offshore Mineral Rights.” Transcripts of Parliamentary Debate. December 2. www.lipad.ca/full/1968/12/02/1/

Trudeau, Pierre. 1968b. Statement Respecting Offshore Mineral Rights. Linked Parliamentary Database (lipad) University of Toronto. http://www.lipad.ca/full/1968/12/03/1/

Trudeau, Pierre. 1993. *Memoirs*. Toronto: McClelland & Stewart.

Trudeau, Pierre. 1990. “The Values of a Just Society.” In *Towards a Just Society: The Trudeau Years*, edited by Thomas Axworthy and Pierre Trudeau, 357-385. Markham, Ontario: Penguin Books Canada Ltd.

Truman, Harry. 1945. “Proclamation 2667—Policy of the United States With Respect to the Natural Resources of the Subsoil and Sea Bed of the Continental Shelf.” September 28. *The American Presidency Project*. http://www.presidency.ucsb.edu/ws/?pid=12332.

Tuohy, Carolyn. 1992. *Policy Politics Canada: Institutionalized Ambivalence*. Philadelphia: Temple University Press.

Tupper, Allan. 1981. “Mr. Trudeau and the West.” In *Western Separatism: The Myths, Realities, and Danger*, edited by Larry Pratt and Garth Stevenson. 85-104. Edmonton: Hurtig Publishers.

U.S. Energy Information Administration. 2012. “Canada.” September 17. http://www.eia.gov/countries/cab.cfm?fips=CA

U.S. Energy Information Administration. 2012. “Nigeria.” October 16. http://www.eia.gov/countries/cab.cfm?fips=NI

U.S. Energy Information Administration. 2016. https://www.eia.gov/beta/international/analysis.cfm?iso=NGA

Uche, Chibuike. 2008. “Oil, British Interests and the Nigerian Civil War.” *The Journal of African History* 49 (1): 111-135.

Ukeje, Charles. 2011. “Changing the Paradigm of Pacification: oil and Militarization in Nigeria’s Delta Region.” In *Oil and Insurgency in the Niger Delta: Managing the Complex Politics of Metro-Violence*, edited by Cyril Obi and Siri Rustad, 83-98. London: Zed Books Ltd.

United Nations IRIN. 2000. “IRIN Focus on Obasanjo’s Changing Political Fortunes.” June 14. www.irinnews.org/feature/2000/06/14/irin-focus-obasanjos-changing-political-fortunes.

Urquhart, Ian. 2002. “Making It Work: Kyoto, Trade and Politics.” A Report Prepared for Parkland Institute, the University of Alberta. October. s3-us-west-2.amazonaws.com/parkland-research-pdfs/makingitwork.pdf

Urquhart, Ian. 2010. “Petrostate: When an Overdeveloped Sense of Prosperity Causes an Underdeveloped Sense of Democracy.” *Alberta Views*. October 1. albertaviews.ca/petrostate/

Uwujaren, Wilson, and Goodluck Ebelo. 2001. “Nigeria: Supreme Court Decision Not Final.” *Tempo* (Lagos). March 22. allafrica.com/stories/200103150107.html

Vanguard. 2001. “Nigeria: Attah Slams Federal Government.” February 12. allafrica.com/stories/200102120444.html

Vanguard. 2005. “Oil: Sagay Raises Alarm Over Derivative Rights.” April 4. http://www.vanguardngr.com/articles/2002/cover/april05/04042005/f404042005.html.

Vanguard. 2015. “Ebonyi Will Massively Vote for Jonathan, Says Mbam RMAFC Chairman." January 16. www.vanguardngr.com/2015/01/ebonyi-will-massively-vote-jonathan-says-mbam-rmafc-chairman/

Vanguard Sweetcrude. 2013. “Kaduna, Kano State Governors reject PIB.” April 2013. sweetcrudereports.com/2013/04/25/kaduna-kano-state-governors-reject-pib/

Varcoe, Chris. 2017. “Canadian Companies Dominate Oil Sands as International Players Head for Exit.” *Calgary Herald*. March 10. calgaryherald.com/business/energy/varcoe-canadian-companies-dominate-oilsands-as-international-players-head-for-exit

Varshney, Ashutosh. 2007. “Ethnicity and Ethnic Conflict.” In *The Oxford Handbook of Comparative Politics,* edited by Carles Boix & Susan Stokes, 274-294. Oxford: Oxford University Press.

Vaughan, Frederick. 1999. “Judicial Politics in Canada: Patterns and Trends.” *IRPP Choices: Courts and Legislatures* 5 (1): 4-20.

Vickers, Jill. 2010. “A Two-Way Street: Federalism and Women’s Politics in Canada and the United States” *Publius: The Journal of Federalism* 40 (3): 412-435.

Vipond, Robert. 1989. “1787 and 1867: The Federal Principle and Canadian Confederation Reconsidered” *Canadian Journal of Political Science* XXII (1): 3-26.

Vipond, Robert. 1991. *Liberty and Community: Canadian Federalism and the Failure of the Constitution*. New York: State Univ of New York Press.

Watts, Michael. 1992. “The Shock of Modernity: Petroleum, Protest, and Fast Capitalism in an Industrialist Society.” In *Reworking Modernity: Capitalisms and Symbolic Discontent*, edited by Allan Pred and Michael Watts, 21-64. New Brunswick, New Jersey: Rutgers University Press.

Watts, Michael. 2013. “Petro-Insurgency or Criminal Syndicate? Conflict & Violence in the Niger Delta.” In *Conflict and Security in Africa*, edited by Rita Abrahamsen, 41-64. Suffolk: James Currey.

Watts, Ronald. 1989. “Executive Federalism: A Comparative Analysis.” Institute of Intergovernmental Relations (IIGR) Queen’s University, Kingston, Ontario. Research Paper No. 26.

Watts, Ronald. 1998. “Federalism, Federal Political Systems, and Federations.” *Annual Review of Political Science* 1: 117-137.

Watts, Ronald. 2000. “Federalism and Diversity in Canada.” In *Autonomy and Ethnicity: Negotiating Competing Claims in Multi-Ethnic States*, edited by Yash Ghai, 29-52, Cambridge: Cambridge University Press.

Watts, Ronald. 2002. “The Relevance Today of the Federal Idea.” Paper for the International Conference on Federalism, 2002, Switzerland. http://www.forumfed.org/libdocs/IntConfFed02/ICFE0208-int-Watts.pdf

Watts, Ronald. 2005. “A Comparative Perspective on Asymmetry in Federations.” Institute of Intergovernmental Relations (IIGR) Queen’s University, Kingston, Ontario. Asymmetry Series 4.

Watts, Ronald. 2008. *Comparing Federal Systems*. Third edition. Montreal and Kingston: McGill-Queen's University Press.

Watts, Ronald. 2010. "Comparative Reflections on Federalism and Democracy." In *Federal Democracies*, edited by Michael Burgess and Alain-G. Gagnon, 325-346. London & New York: Routledge.

Watts, Ronald. 2013. "Typologies of Federalism." In *Routledge Handbook of Regionalism & Federalism,* edited by John Loughlin, John Kincaid, and Wilfried Swenden, 19-33. Abingdon, Oxxon Ox: Routledge.

Webb, Jeff. 2001. "The Commission of Government, 1934-1949." Newfoundland and Labrador Heritage Website. http://www.heritage.nf.ca/articles/politics/commission-government.php

Webb, Michael C. 1995. *The Political Economy of Policy Coordination: International Adjustment Since 1945*. Ithaca, NY: Cornell University Press.

Welz, Christian. 2008. *The European Social Dialogue Under Articles 138 and 139 of the EC Treaty: Actors, Processes and Outcomes*. Austin: Wolters Kluwer.

Wheare, Kenneth. 1963. *Federal Government*. London: Oxford University Press.

Wibbels, Erik. 2006. "Madison in Baghdad? Decentralization and Federalism in Comparative Politics." *Annual Review of Political Science* 9: 165-88.

Widner, Jennifer. 2005. "Constitution Writing & Conflict Resolution: Nigeria 1978." www.princeton.edu/~pcwcr/reports/nigeria1978.html

Wilson, Larry. 1974. "Disallowance: The Threat to Western Canada." *Saskatchewan Law Review* 39: 156-182.

Wood, Donna. 2015. "Comparing Intergovernmental Institutions in Human Capital Development." In *Canada: The State of the Federation 2012: Regions, Resources, and Resilience*, edited by Loleen Berdahl, Andre Juneau, and Carolyn Tuohy, 119-144. Montreal: McGill University Press.

Wood, James. 2016. "NDP Government to Maintain Current Royalty Structure for Alberta's Oil Sands." *Calgary Herald*. January 30. calgaryherald.com/business/energy/live-notley-unveils-royalty-review-report

World Bank. 2013. Nigeria Economic Report. No. 1. May. https://openknowledge.worldbank.org/bitstream/handle/10986/16568/776840WP0Niger0Box0342041B00PUBLIC0.pdf?sequence=1&isAllowed=y

World Ocean Review. 2014. "Marine Resources – Opportunities and Risks." worldoceanreview.com/wp-content/downloads/wor3/WOR3_english.pdf

Yergin, Daniel. 2008. *The Prize: The Epic Quest for Oil, Money & Power*. New York: Free Press.

Yusgiantoro, Purnomo. 2004. "Oil and Gas: The Engine of the World Economy." Theme for an Address at the Tenth International Financial and Economic Forum. November 10–11. 2004www.opec.org/opec_web/en/900.htm

Zukowsky, James. 1981. *Struggle over the Constitution: From the Quebec Referendum to the Supreme Court. Intergovernmental Relations in Canada: The Year in Review 1989*. Vol. 2. Kingston: Institute of Intergovernmental Relations.