

*Public Health Law Challenges and  
Opportunities for  
Aboriginal Communities*

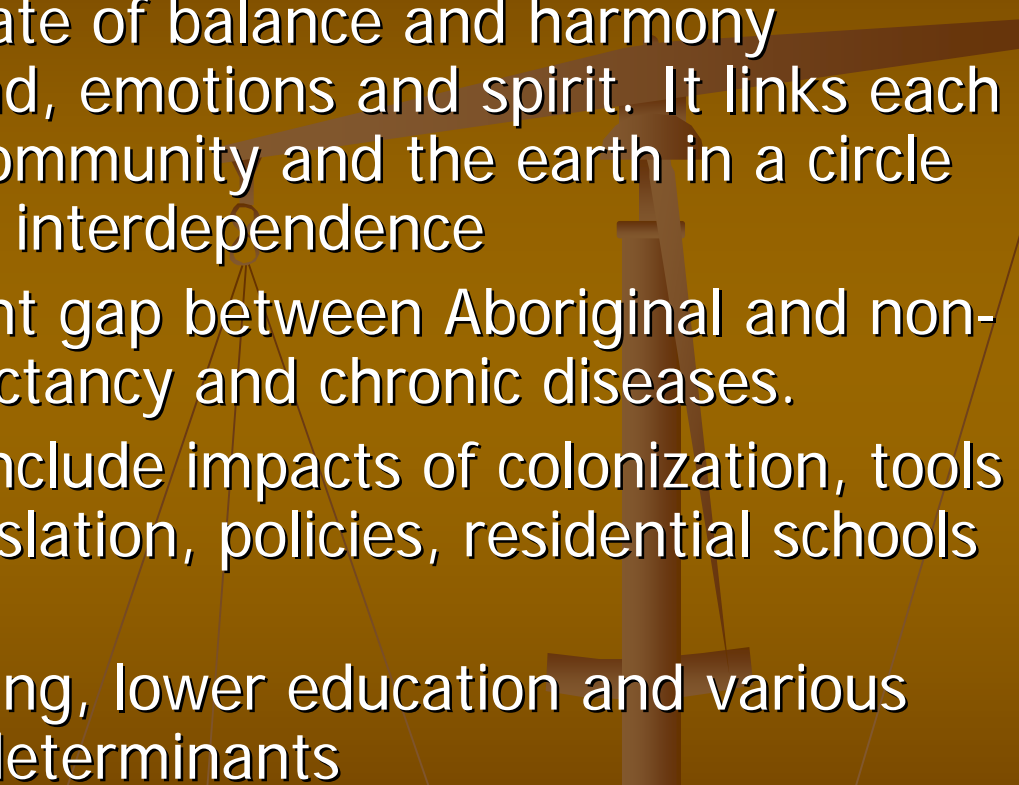
**Aboriginal Health: Jurisdictional  
Issues**

*“Canadian  
Conference on the Public’s Health and the Law: The  
Role of Law in  
Promoting and Protecting the Public’s Health”*

November 7, 2006

Yvonne Boyer, L.L.B., L.L.M.

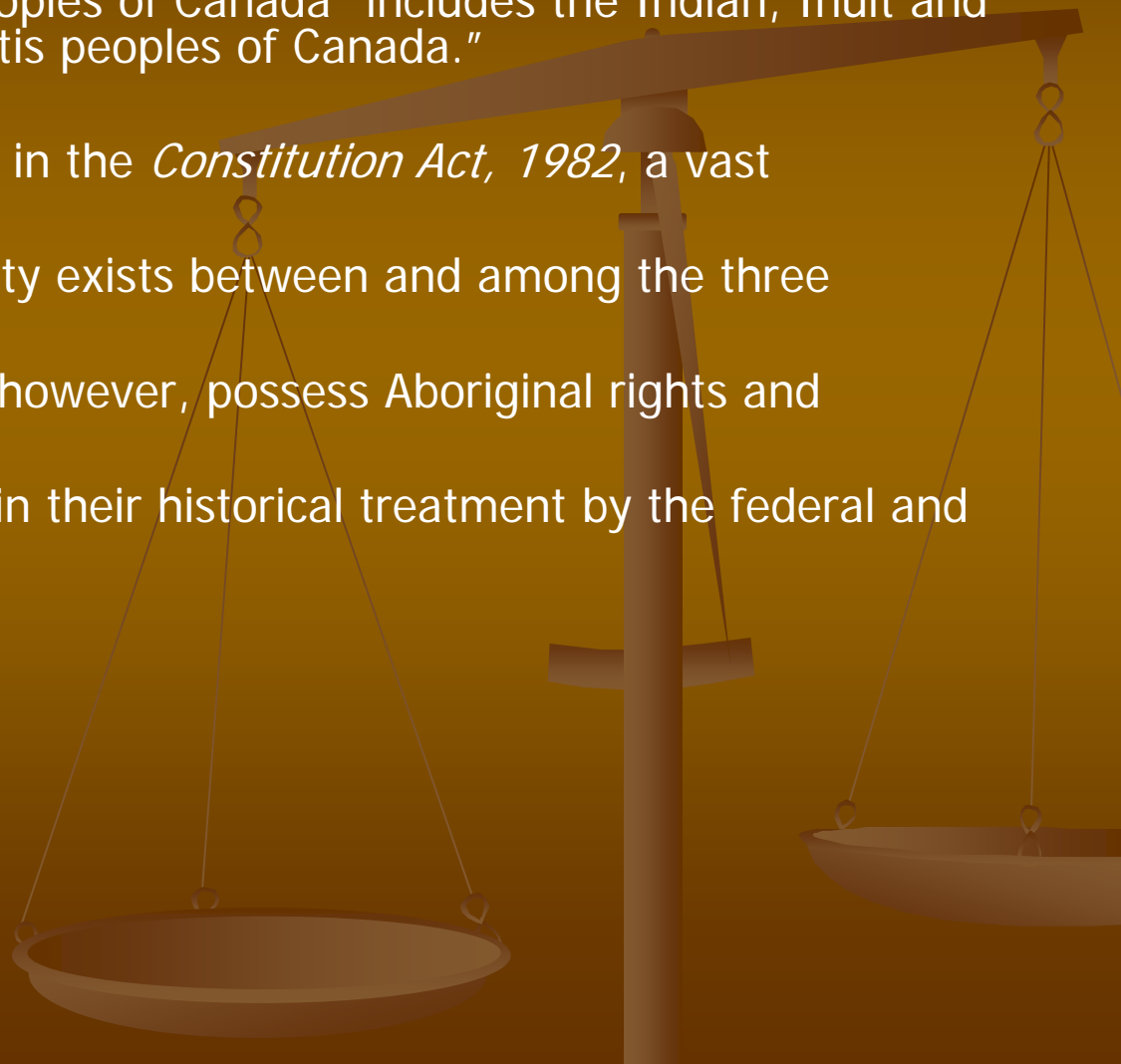
# Aboriginal Health

1. Good health is a state of balance and harmony involving body, mind, emotions and spirit. It links each person to family, community and the earth in a circle of dependence and interdependence
  2. There is a significant gap between Aboriginal and non-Aboriginal life expectancy and chronic diseases.
  3. Historical sources include impacts of colonization, tools of assimilation, legislation, policies, residential schools etc.
  4. Poverty, poor housing, lower education and various factors are health determinants
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## Section 35(2) of the *Constitution Act, 1982*:

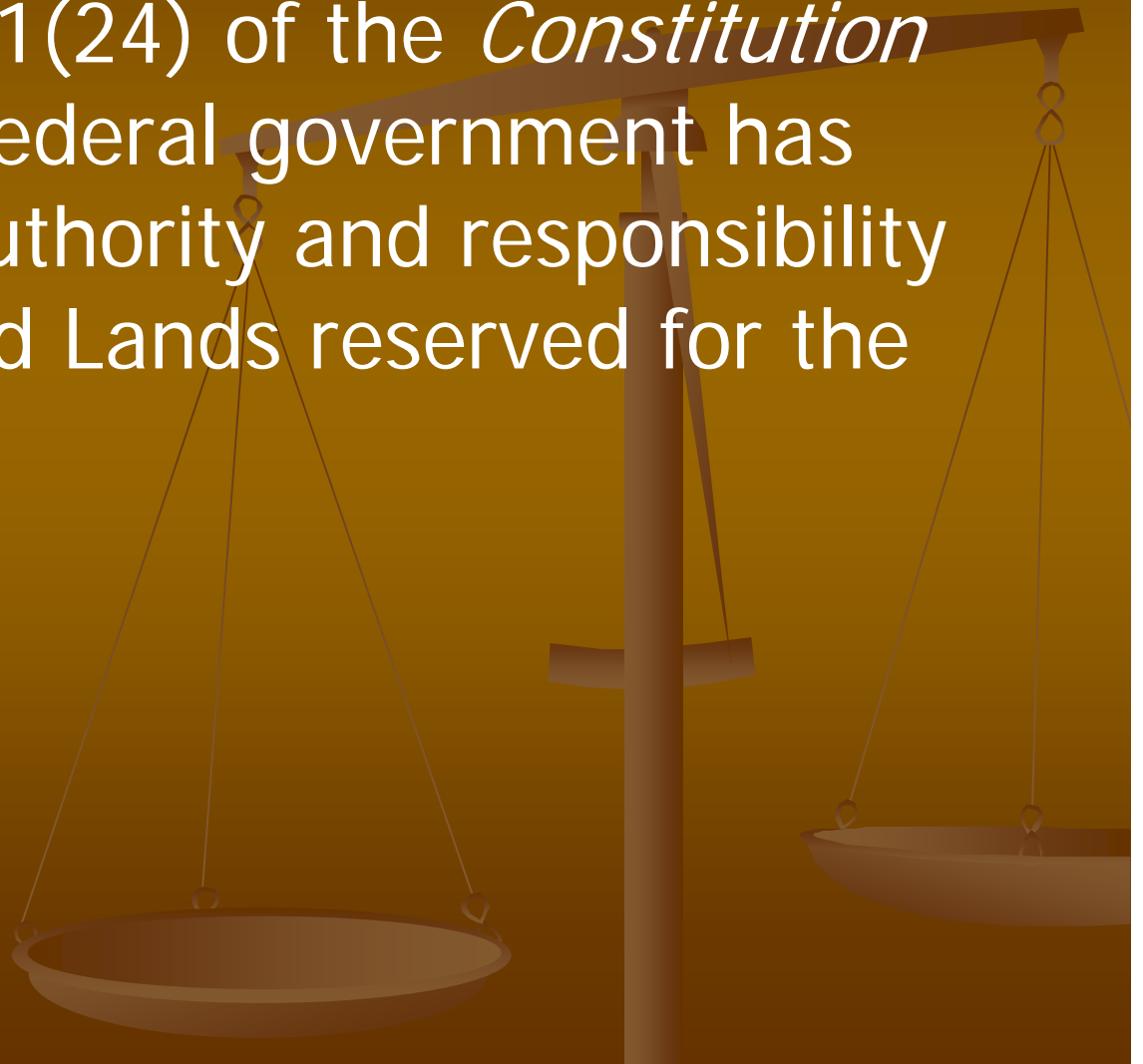
“(2) In this Act, “aboriginal peoples of Canada” includes the Indian, Inuit and Métis peoples of Canada.”

- Although equally recognized in the *Constitution Act, 1982*, a vast cultural and linguistic diversity exists between and among the three Aboriginal groups. They all, however, possess Aboriginal rights and share common experiences in their historical treatment by the federal and provincial governments.



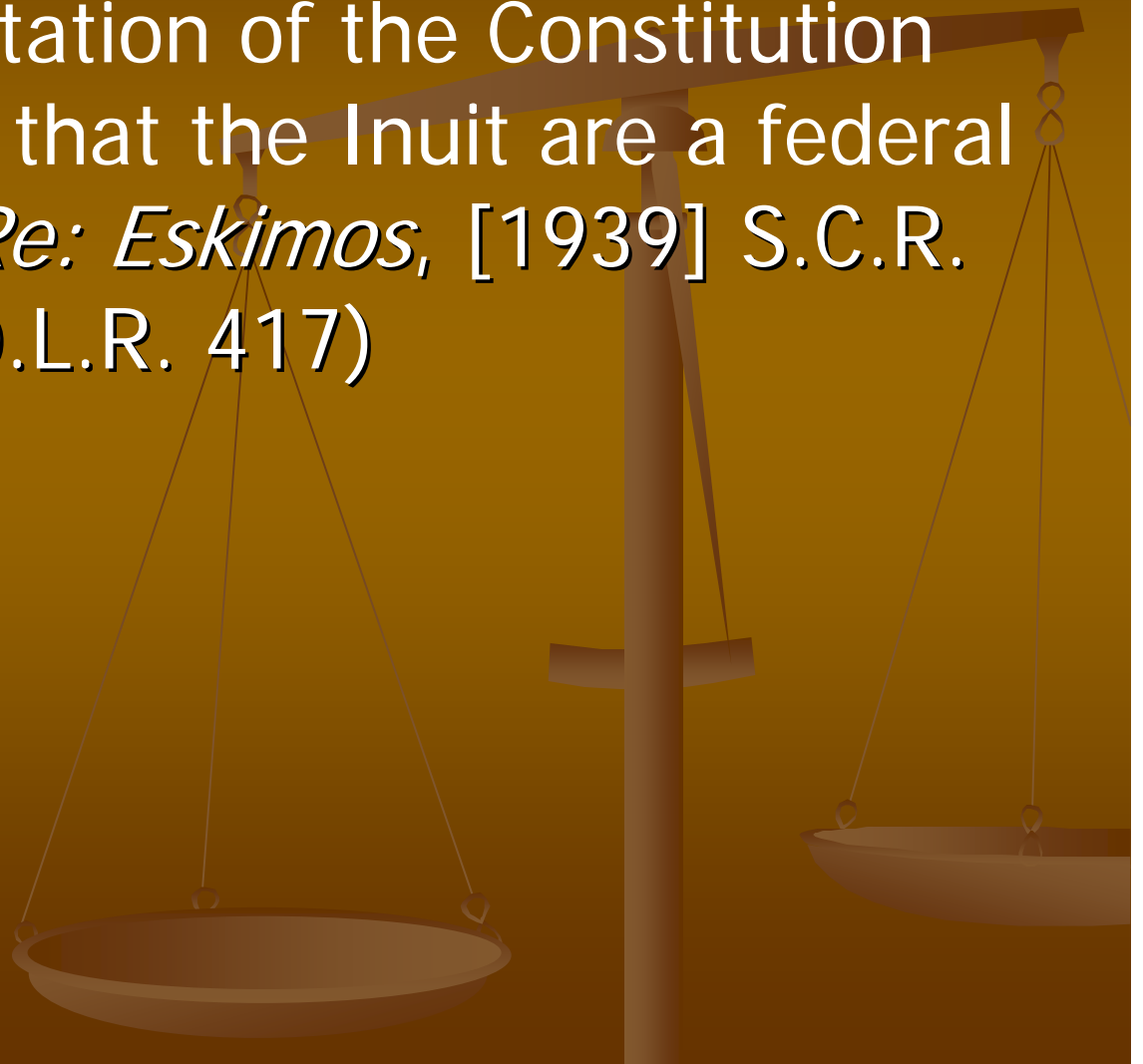
# First Nation Peoples (“Indian”)

- Under section 91(24) of the *Constitution Act, 1867*, the federal government has constitutional authority and responsibility for “Indians, and Lands reserved for the Indians.”



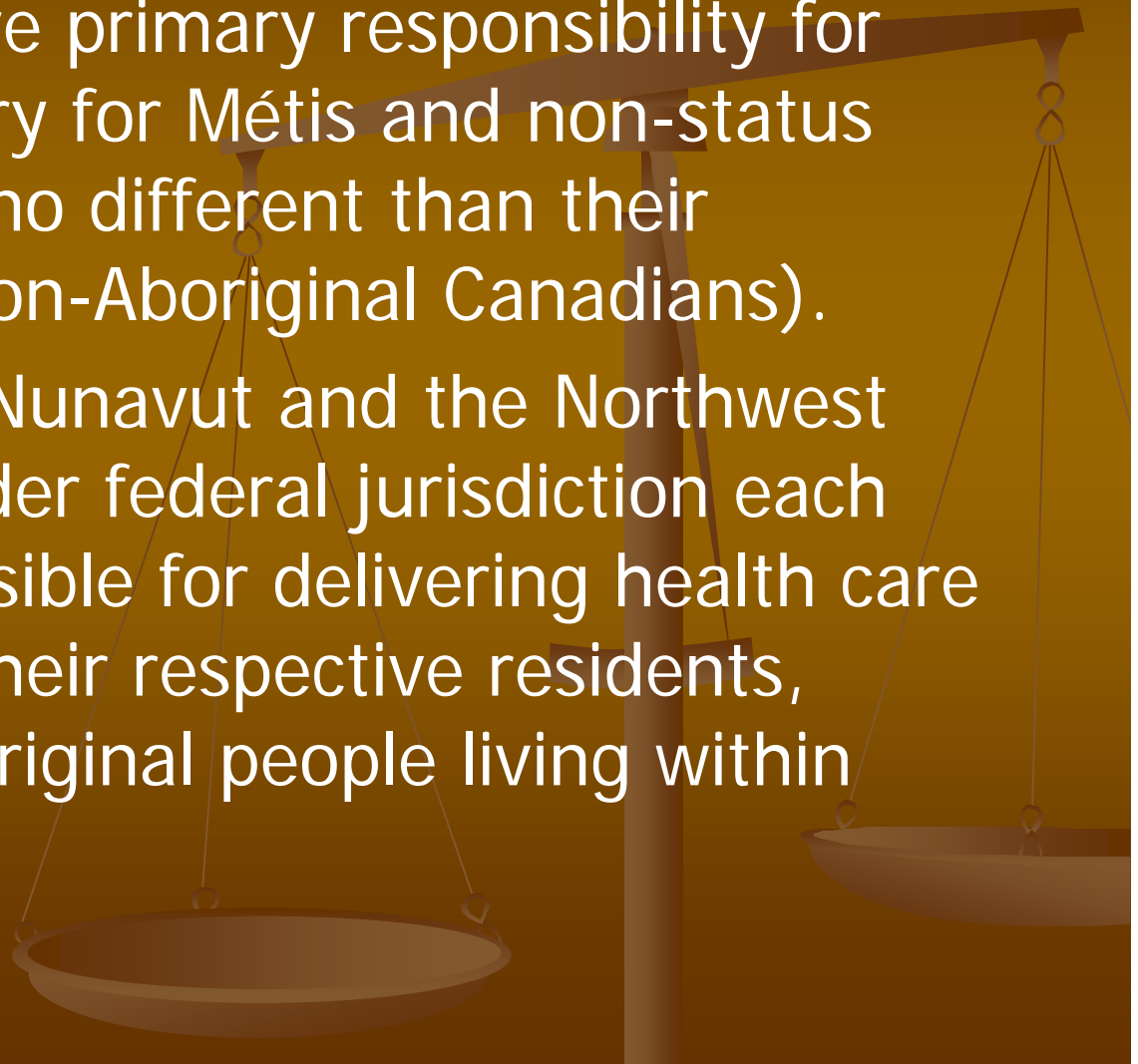
# Inuit Peoples

- Judicial interpretation of the Constitution has determined that the Inuit are a federal responsibility (*Re: Eskimos*, [1939] S.C.R. 104, [1939] 2 D.L.R. 417)



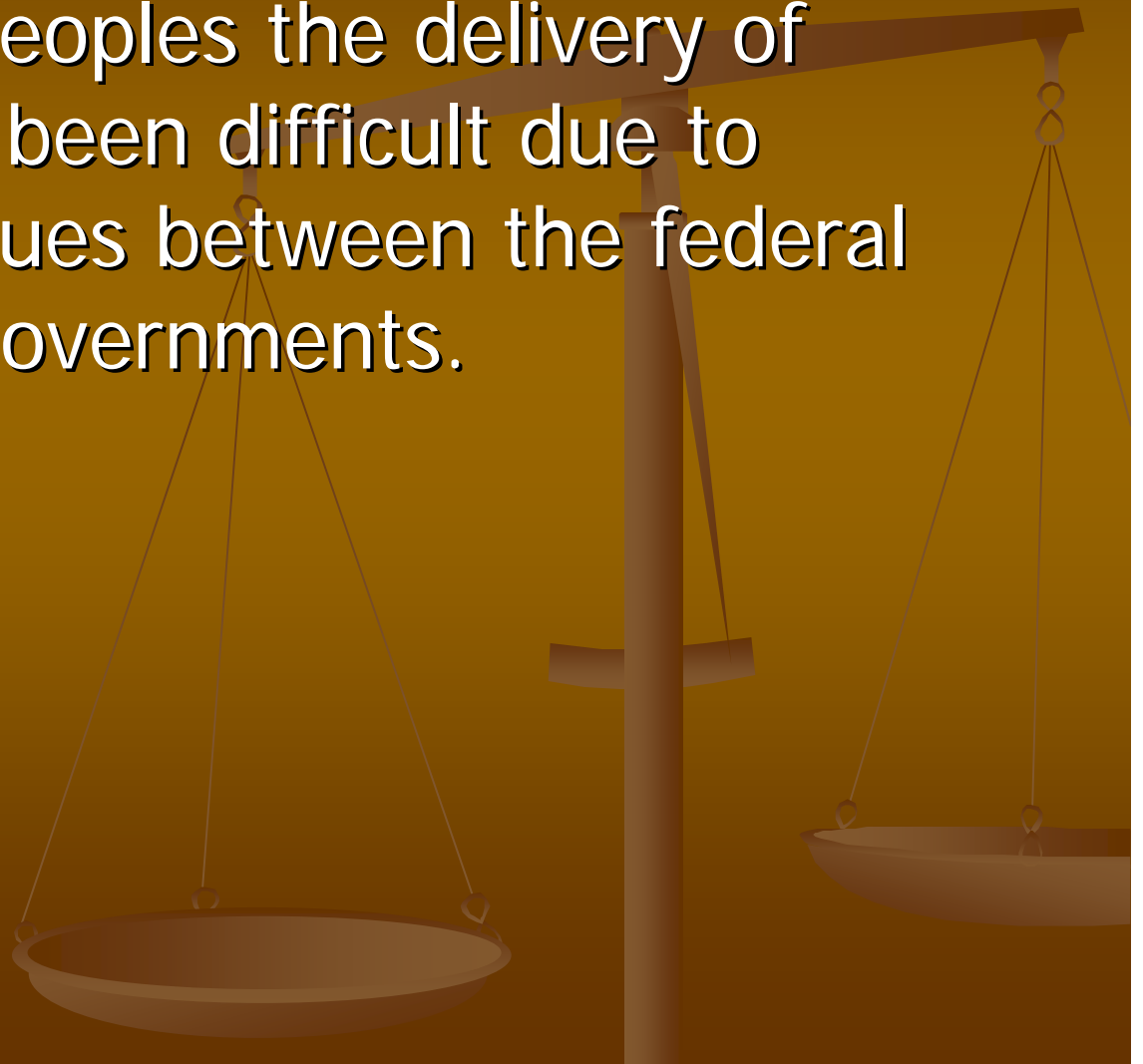
# Métis Peoples

- The provinces have primary responsibility for health care delivery for Métis and non-status Indians (which is no different than their responsibility to non-Aboriginal Canadians).
- Since the Yukon, Nunavut and the Northwest Territories are under federal jurisdiction each territory is responsible for delivering health care services to all of their respective residents, including non-Aboriginal people living within their jurisdictions.



# Results...

- For Aboriginal Peoples the delivery of health care has been difficult due to jurisdictional issues between the federal and provincial governments.



# Public Health Issues

- Federal legislation does not apply to First Nations on reserve
- But on the basis of legislation, policy, and historical practice the federal government provides some health services to First Nations on reserve and Inuit, including public health activities, health promotion and the detection and mitigation of hazards to health in the environment

