

Self Government for Aboriginal Peoples

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Self-Government for Aboriginal Peoples Living in Urban Areas

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EXECUTIVE SUMMARY

SELF-GOVERNMENT FOR ABORIGINAL PEOPLES LIVING IN URBAN AREAS

A DISCUSSION PAPER PREPARED FOR THE NATIVE COUNCIL OF CANADA

BY THE INSTITUTE OF INTERGOVERNMENTAL RELATIONS

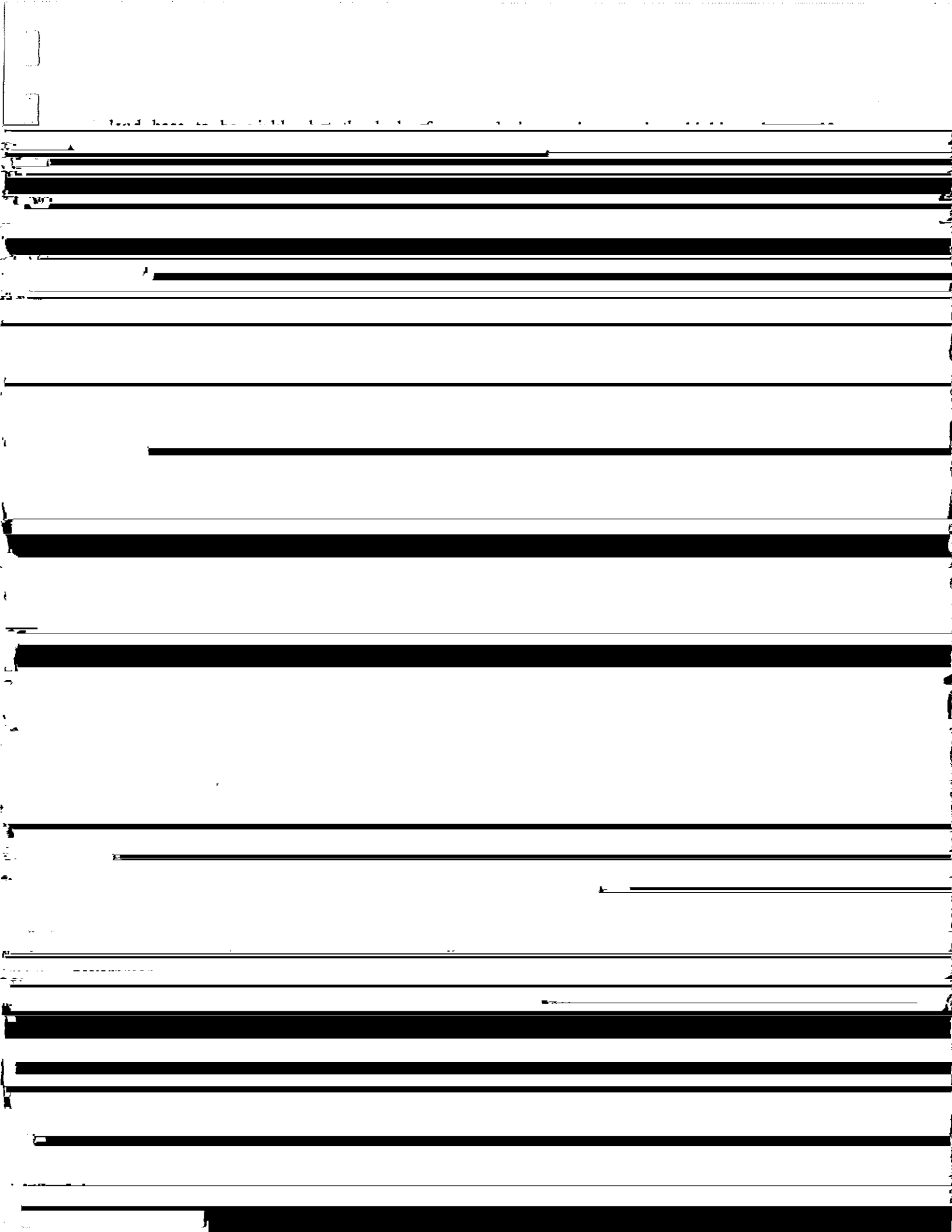
QUEEN'S UNIVERSITY

CONTEXT OF THE STUDY

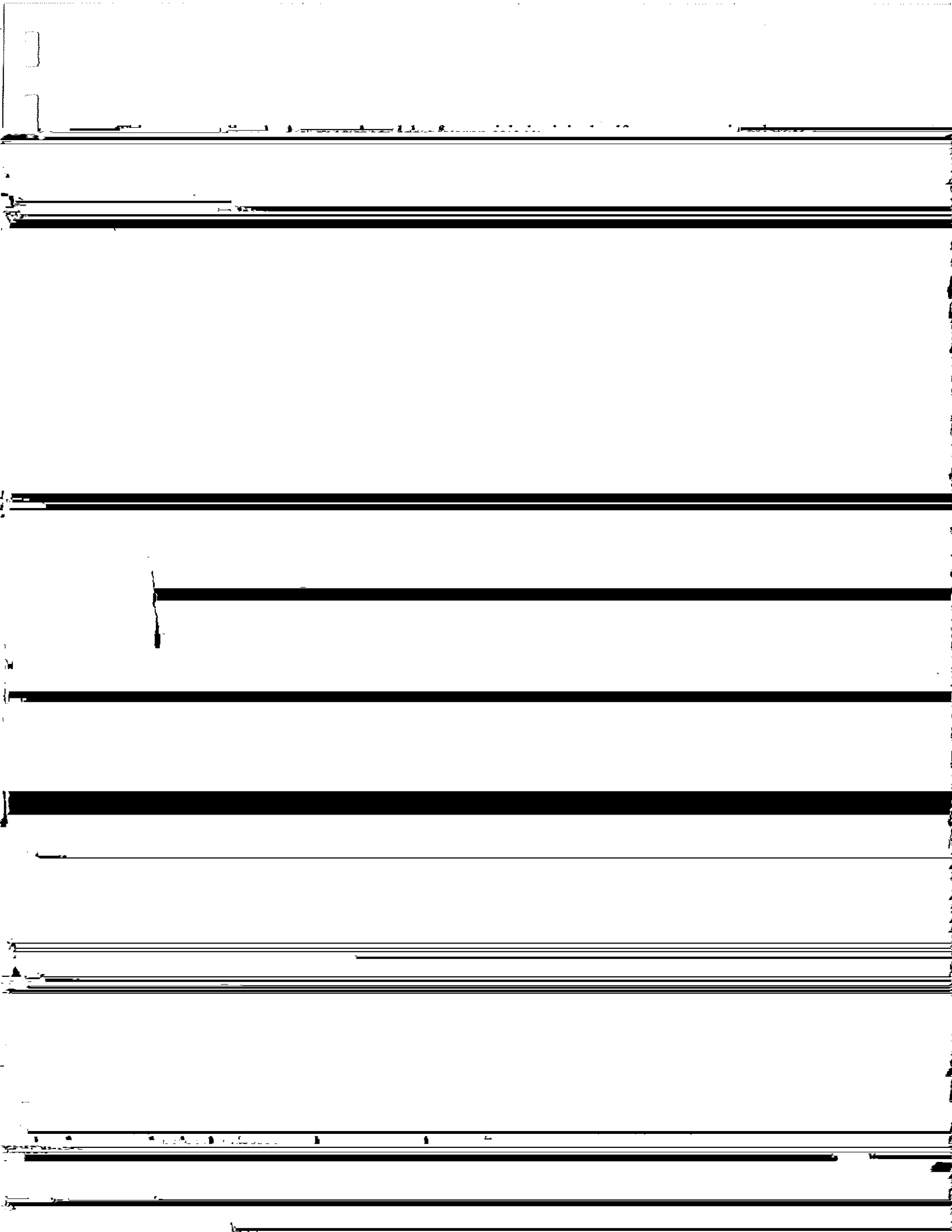
- This discussion paper has been written in order to review the issues surrounding the application of the inherent right of self-government to aboriginal peoples living as a minority within large

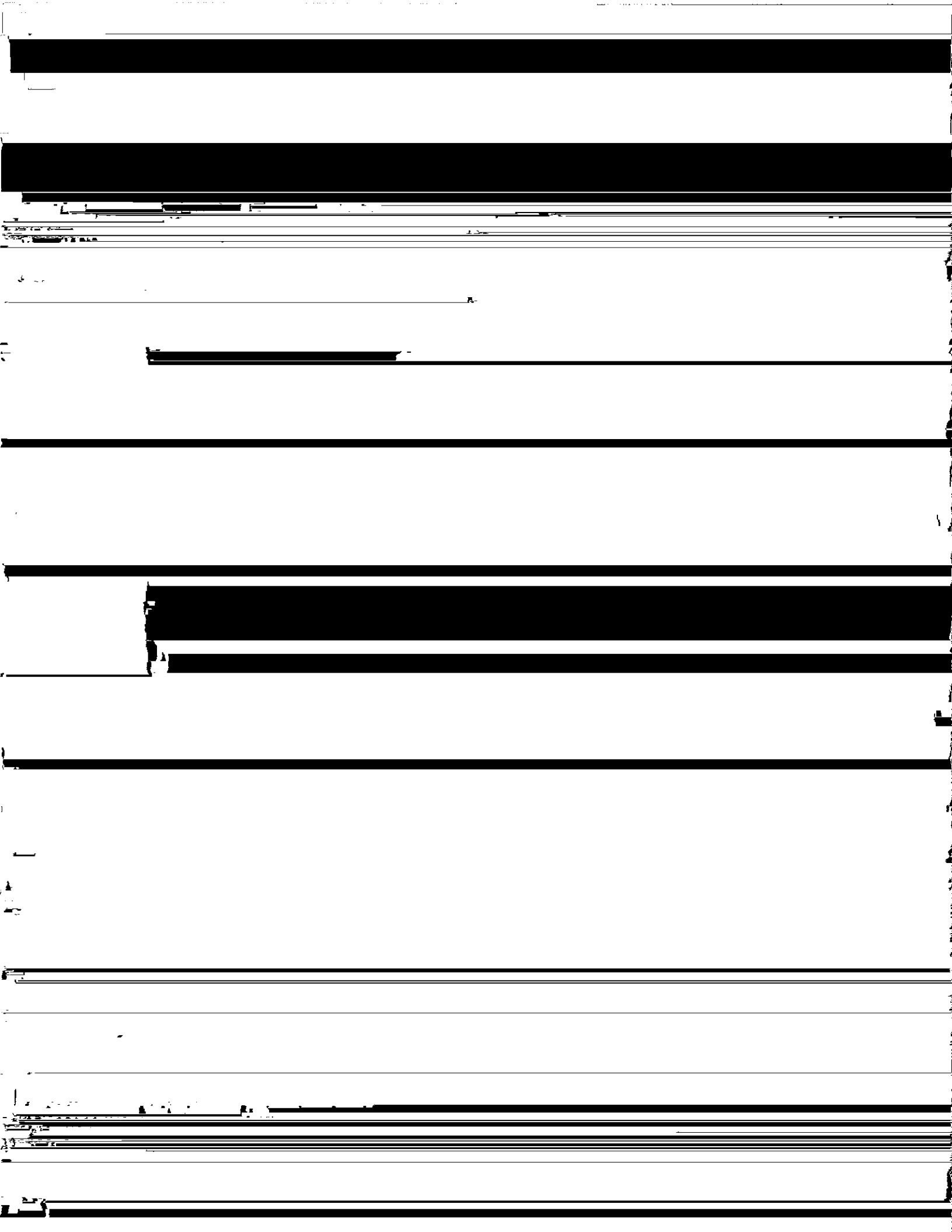
Canadian cities.

- Close to one-half of the aboriginal population of Canada lives in large urban centres, a proportion which is increasing in recent years. If aboriginal self-government is to contribute to improving the economic, social, cultural and political conditions of the aboriginal community



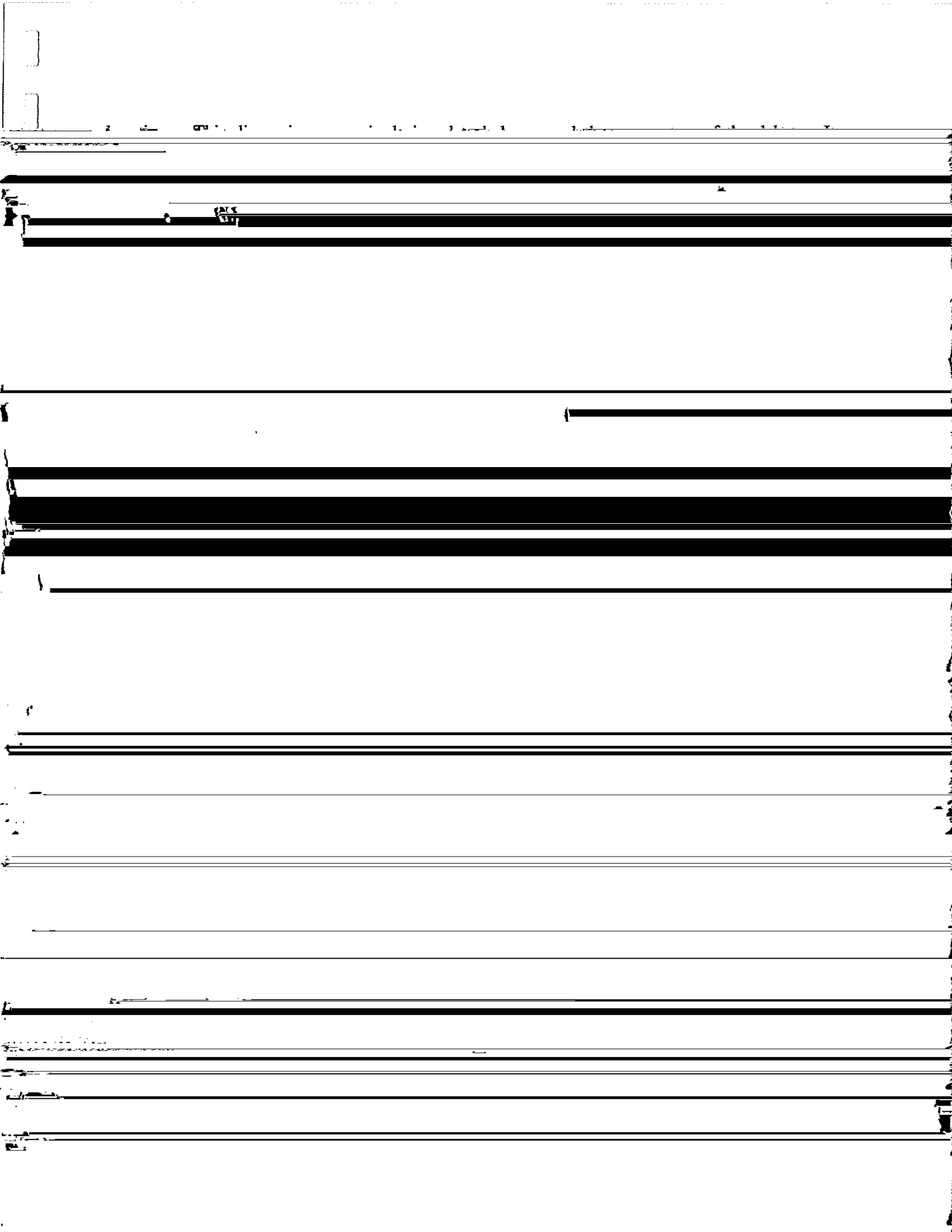
... limited land base will apply mostly to resources, land claim settlement areas and other

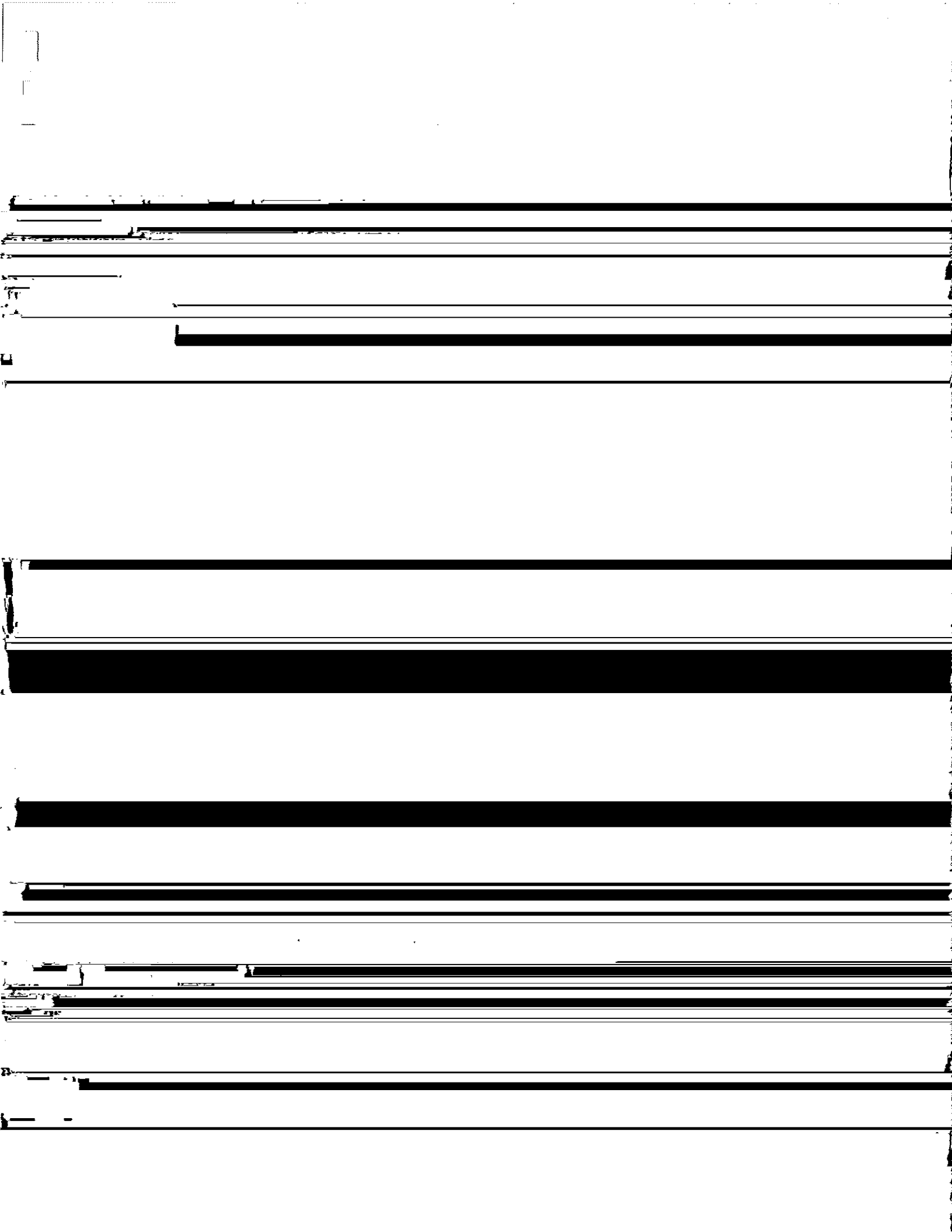




CONCLUSION

I. INTRODUCTION





this study sets the context for the development of urban self-government. It identifies the

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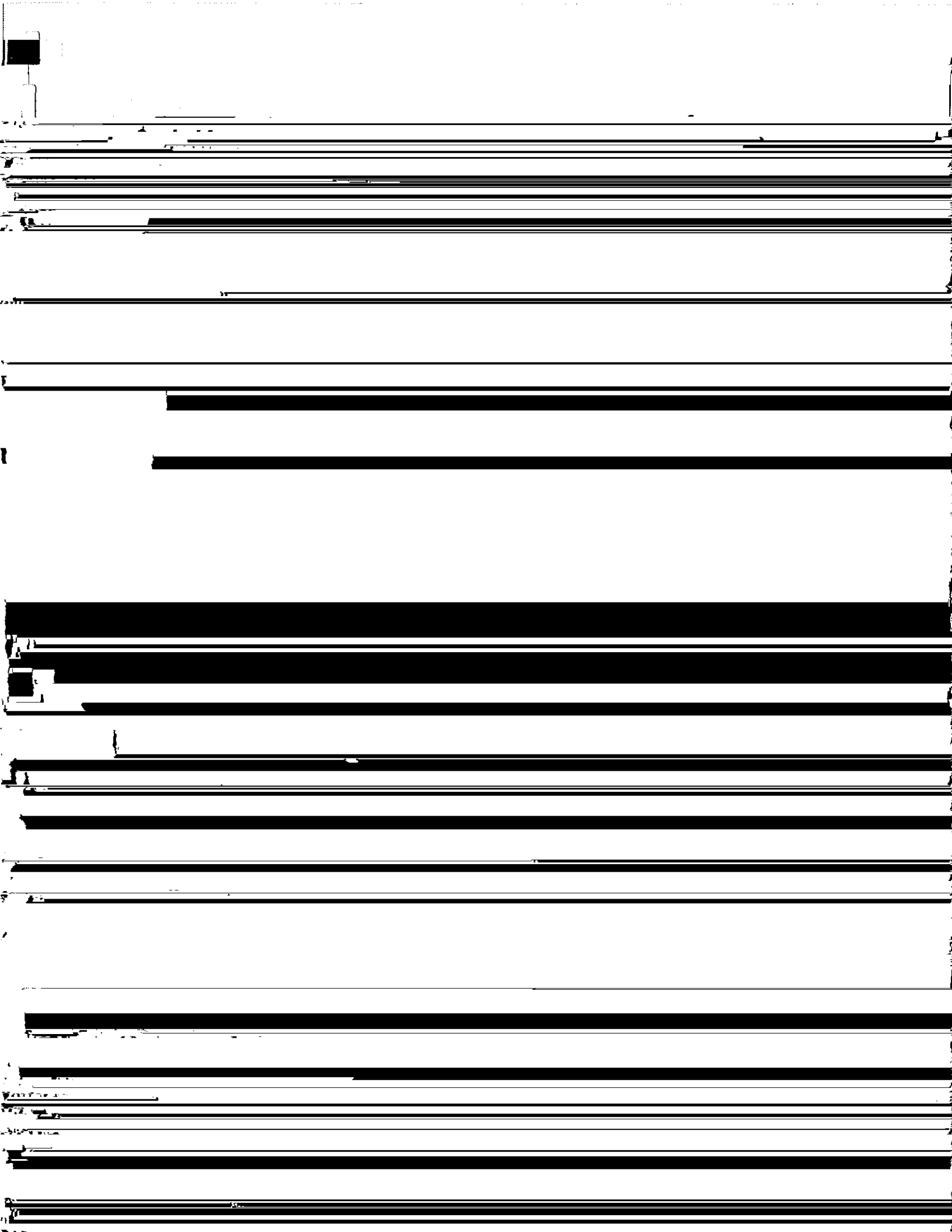
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II. CONTEXT

The Aboriginal Peoples of Canada

The aboriginal peoples of Canada are commonly known as Indians, Inuit and Métis. They

band membership, residence on reserves, tax exemptions, treaty rights, and special federal



their status through the process of enfranchisement. In exchange for surrendering their status

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A broad definition includes all people of mixed Indian and non-Indian ancestry who identify themselves as Métis and are accepted by the Métis community. In the 1800s, some Métis received land grants or money scrip rather than treaty payments and the right to reserves. With

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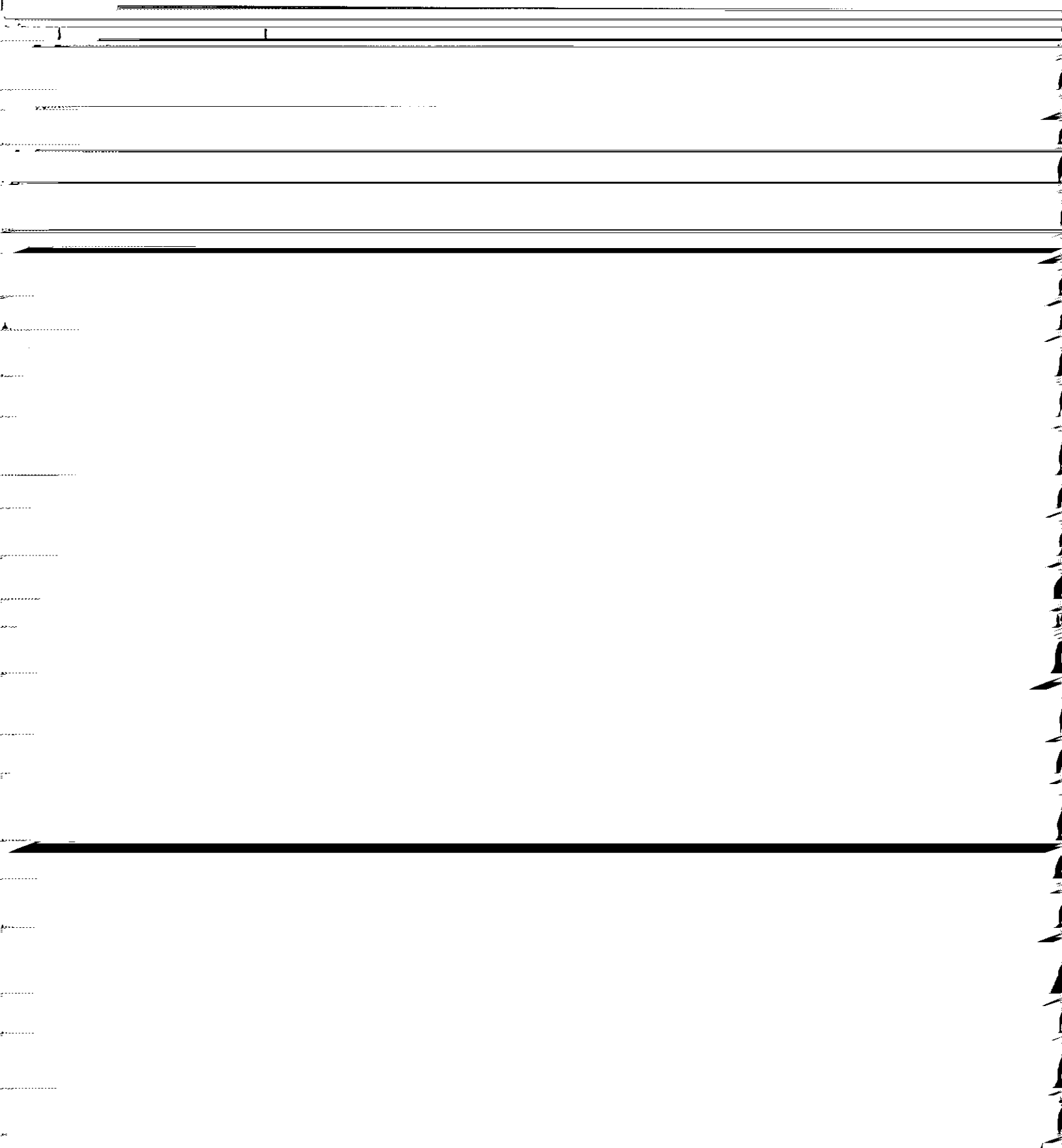
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**Figure 2: Aboriginal Population by Region
and Legal Category, 1990**

1. Registered Indians¹



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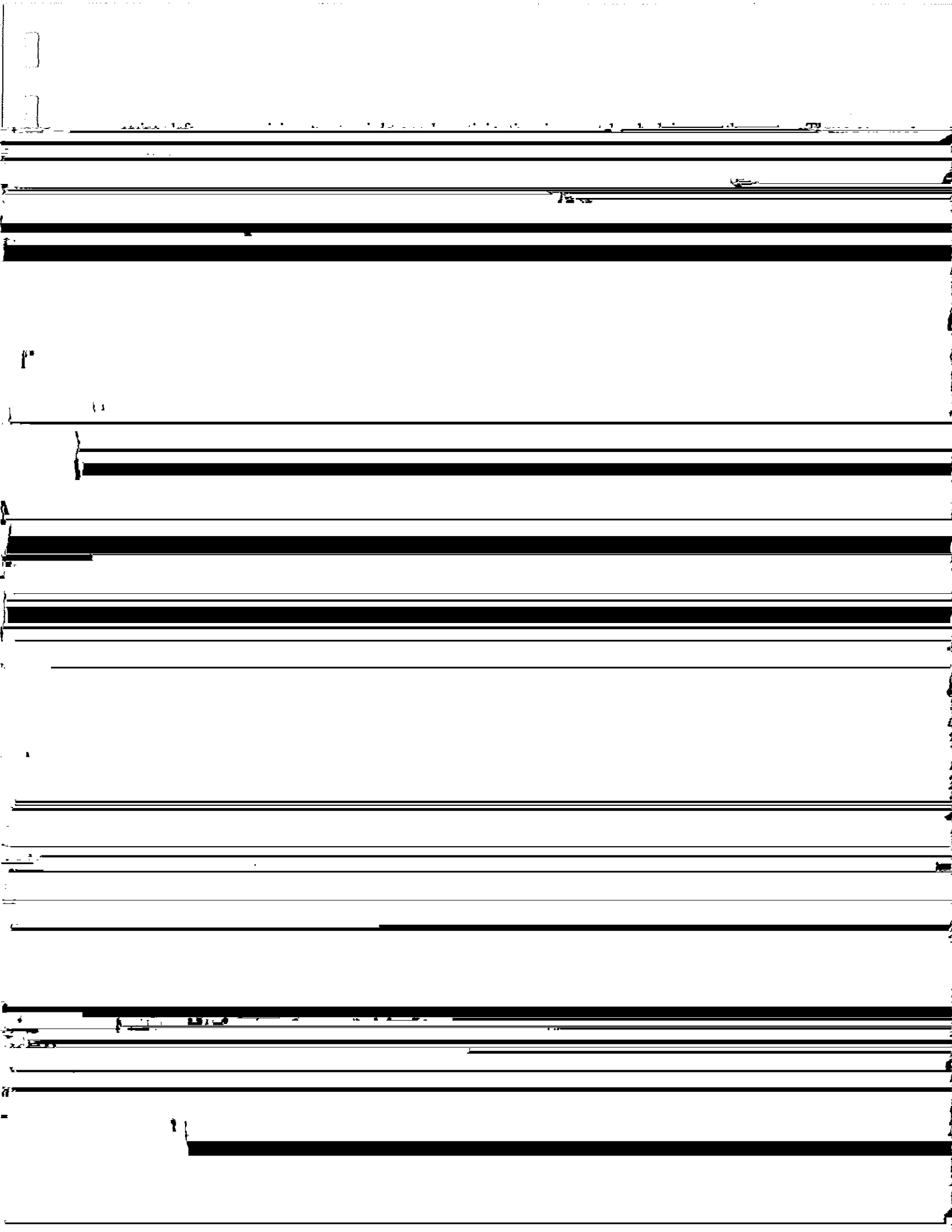
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Provinces have argued that they have no special responsibility for aboriginal people.

Aside from some special programs aimed at all aboriginal peoples, provincial governments have



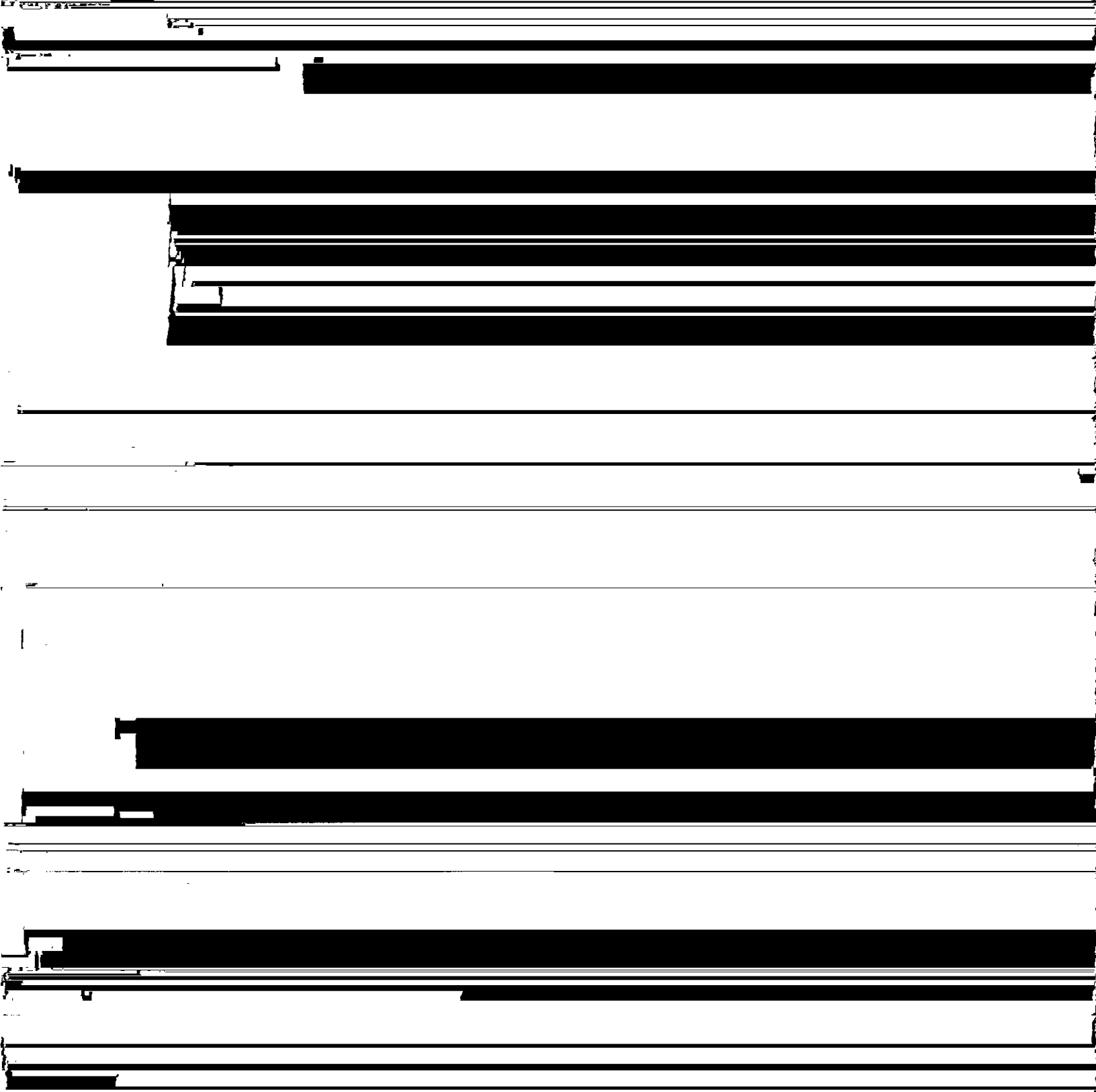
peoples, and particularly those living off-reserve. Disputes over jurisdiction have led to the inadequate provision of services and funding. As well, federal-provincial differences have

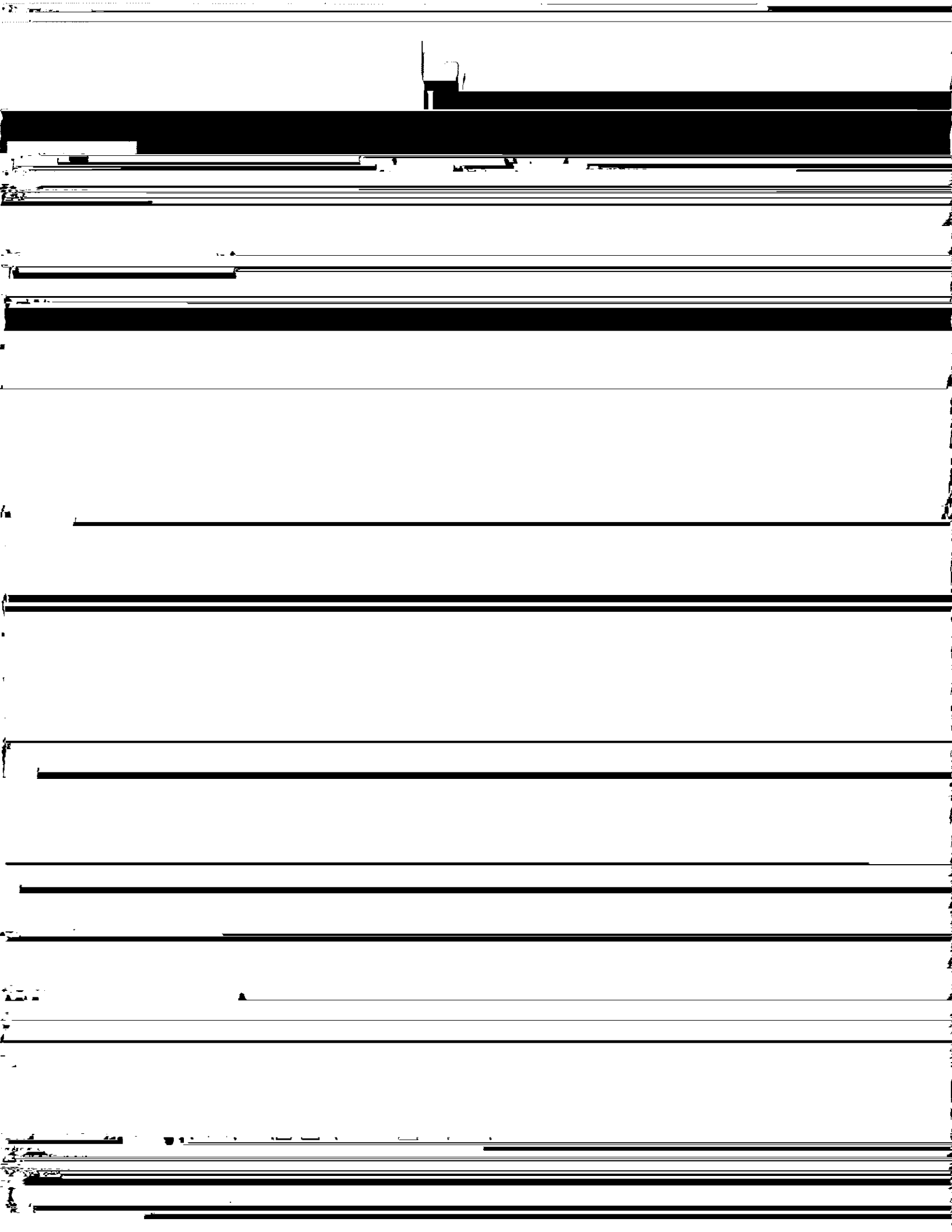
about 16 percent of status Indians lived off-reserve. The number rose to 27 percent in the mid-1970s, and 30 percent by 1981.¹⁸ In 1991, 40 percent of the status Indian population lived off-reserve.¹⁹ Nearly 80 percent of this group lives in large metropolitan areas. Populations of non-

Figure 3

Aboriginal and Non-Aboriginal Populations by Metropolitan Area, 1986 Census

| Metropolitan Area | Aboriginal Population | Non-Aboriginal Population | Total Population |
|-------------------|-----------------------|---------------------------|------------------|
|-------------------|-----------------------|---------------------------|------------------|





population. While it is unfortunately based on somewhat limited, and dated data, it nonetheless shows a minority population which has been marginalized in the larger society. The situation



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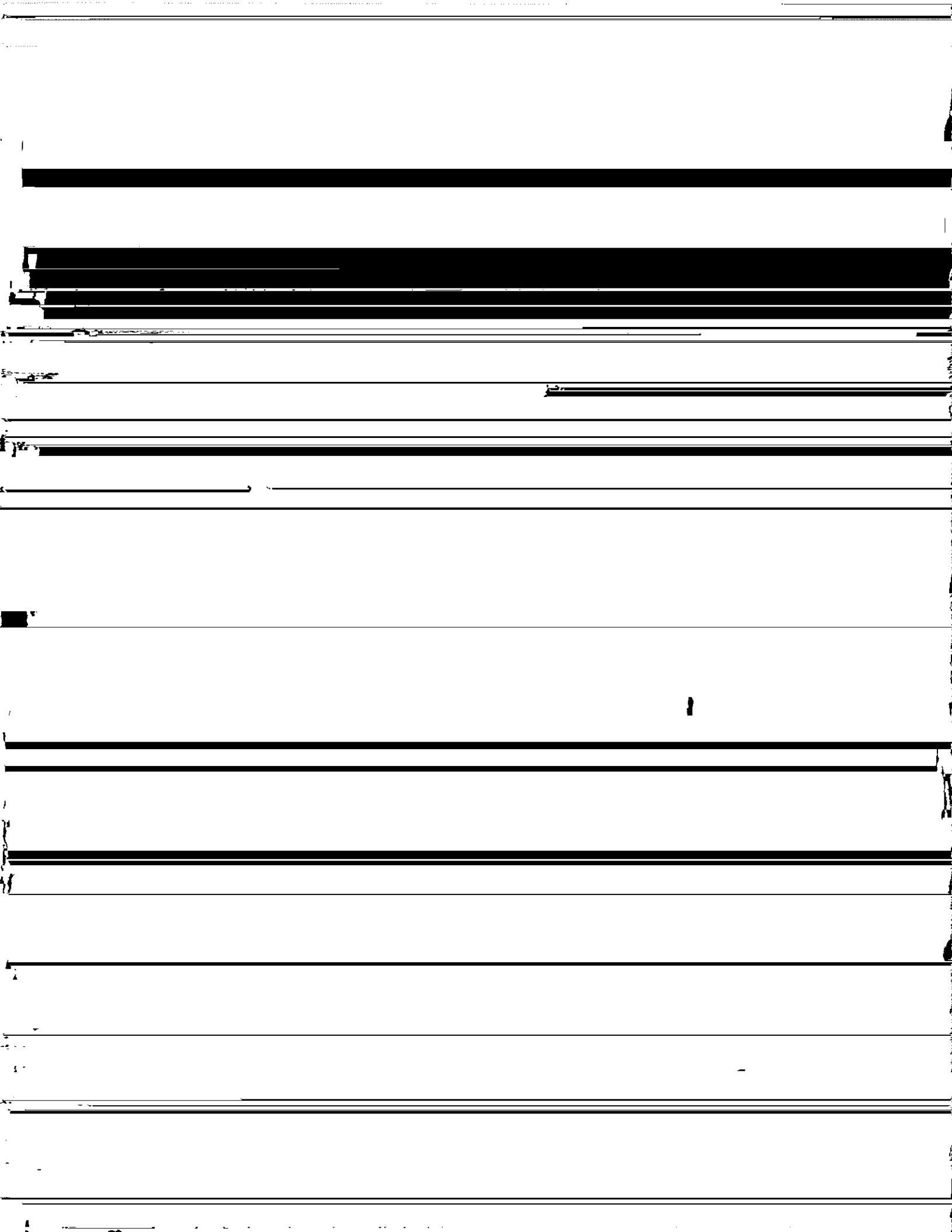
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III. THE RIGHT OF SELF-GOVERNMENT AND LIBRARY ABORIGINAL PEOPLE

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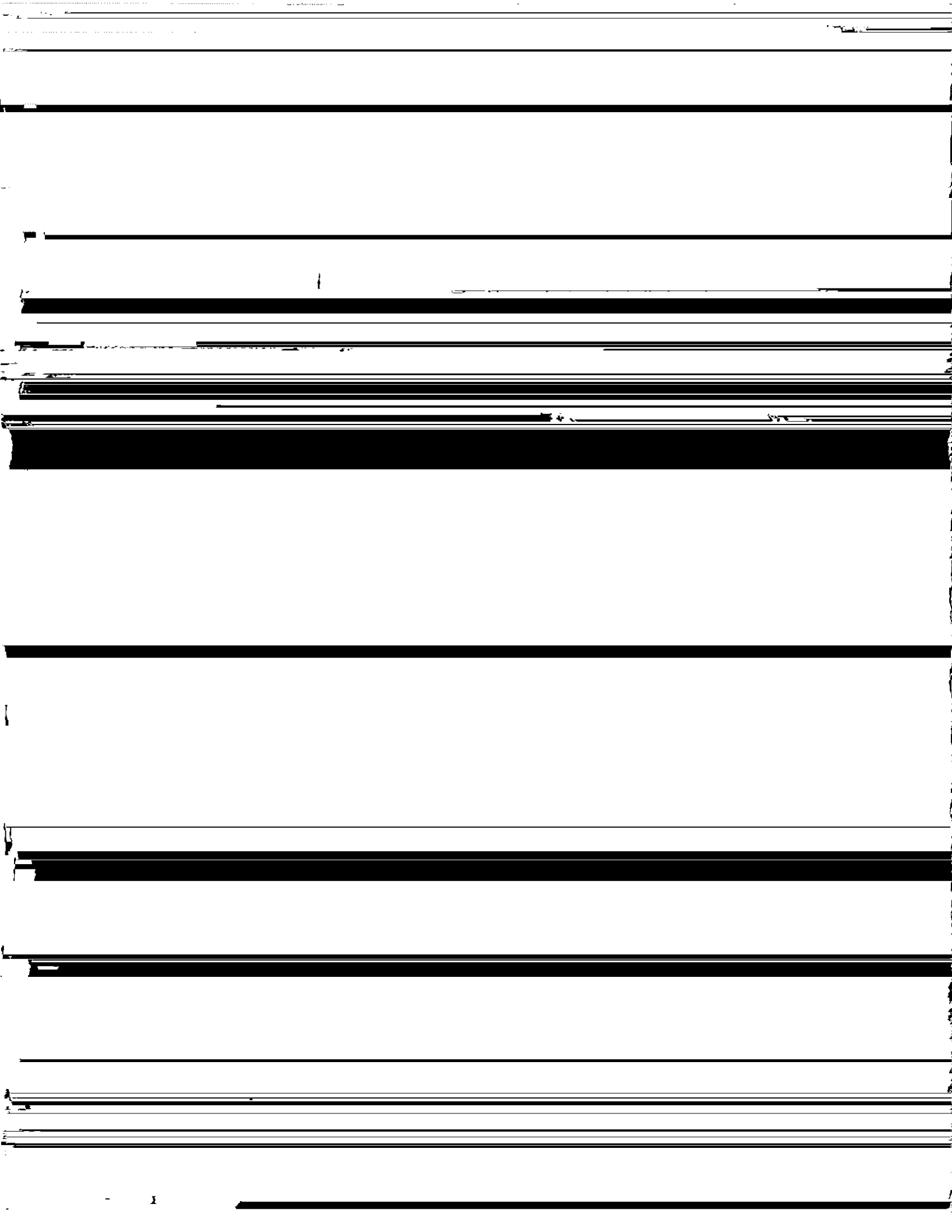
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could be exercised:

1. *Governing the Traditional Territory*

Most of what is now Canada was governed by one aboriginal nation or another with



city.

How such governing rights are implemented in practice may depend on a variety of

To make a distinction between these ways of exercising the inherent right of self-government may seem an overly academic point to many, and could be perceived as a perpetuation of the legal legacy of "dividing" and "separating" the aboriginal peoples of Canada.

allowing for a variety of forms of urban self-government.

The next section of this paper deals with specific forms for the application of aboriginal self-government in urban areas, and deals with five key issues related to governing. In

IV. URBAN ABORIGINAL SELF-GOVERNMENT IN PRACTICE

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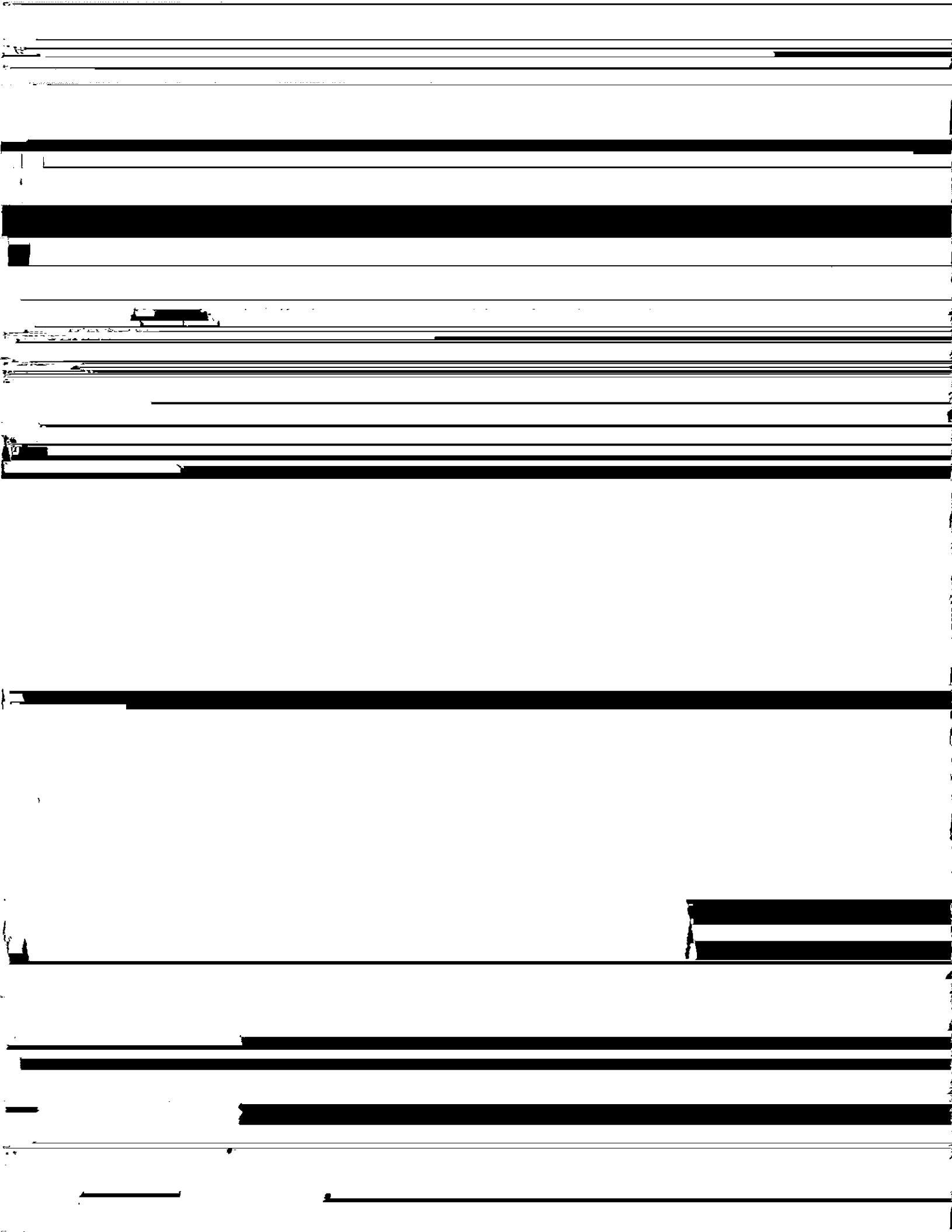
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to be a priority of urban aboriginal organizations at the present time. However, the concept of an aboriginal neighbourhood merits some consideration.

applied to them. The success of an extra-territorial model depends on agreements and continuing effective relations with land based aboriginal governments and on self-identification by urban aboriginal residents of their association with the land based communities.

The Elements of Self-Government

Using the basic forms reviewed above, six areas relating to self-government are examined below: membership issues; the jurisdiction and powers of aboriginal governments; urban governing structures; access to lands and resources for urban populations; the financing of urban aboriginal governments; and the relationships of urban aboriginal governments to other aboriginal and non-aboriginal governments.

1. *Membership*

Membership is a fundamental issue for self-government, as it determines who is entitled to the rights, benefits, and corresponding responsibilities of governments. Membership in aboriginal governments also has implications for provincial and national citizenship, and for relationships with local governments and other aboriginal governments.

Most urban aboriginal governments or institutions will necessarily be confined to the

of a particular territory come under the jurisdiction of the government. One exception to this rule would be public governments where aboriginals are the majority such as Nunavut (although this may never apply in urban areas as defined in this paper). Another exception might be on

special regulations that applied only in that area.

The extra-territorial powers of land based governments also raise some membership issues.³⁷ They raise questions as to the type and method of representation which urban residents

individual rights. A requirement to participate in aboriginal governing structures could infringe upon individual rights to equality with nonaboriginal people in the same areas. A related issue

The relationship between aboriginal, provincial, and Canadian citizenship remains a central issue to be resolved for self-government to work effectively. Fortunately, federal systems of government provide an effective model and the means by which multiple layers of citizenship can coexist. The Canadian federation should be able to adapt to embrace aboriginal citizenship in addition to existing federal, provincial, and municipal citizenship.

2. Governing Structures

Governing structures will vary according to the different powers exercised and services to be provided in the urban community. A number of different models have been proposed. The ~~concrete or chartered model is based on the~~

exercising an entire range of governing powers.

A broader model is aboriginal self-administration.⁴² Self-administration can take the forms of institutional or political autonomy. Institutional autonomy involves the creation of

Another option is an institution such as URBAN (currently existing in Vancouver). It presents an alternative between the political and institutional autonomy models. While it draws a number of agencies together and distributes funding, it does not perform the political representation role of a general government. In a purely institutional model, agencies in individual areas such as economic development, housing, and social services could be

able to combine some traditional forms of governing and leadership selection. Elders may play a special role in a general government or advisory body. In heterogeneous aboriginal communities, tribal affiliations could be taken into consideration in forming a representative

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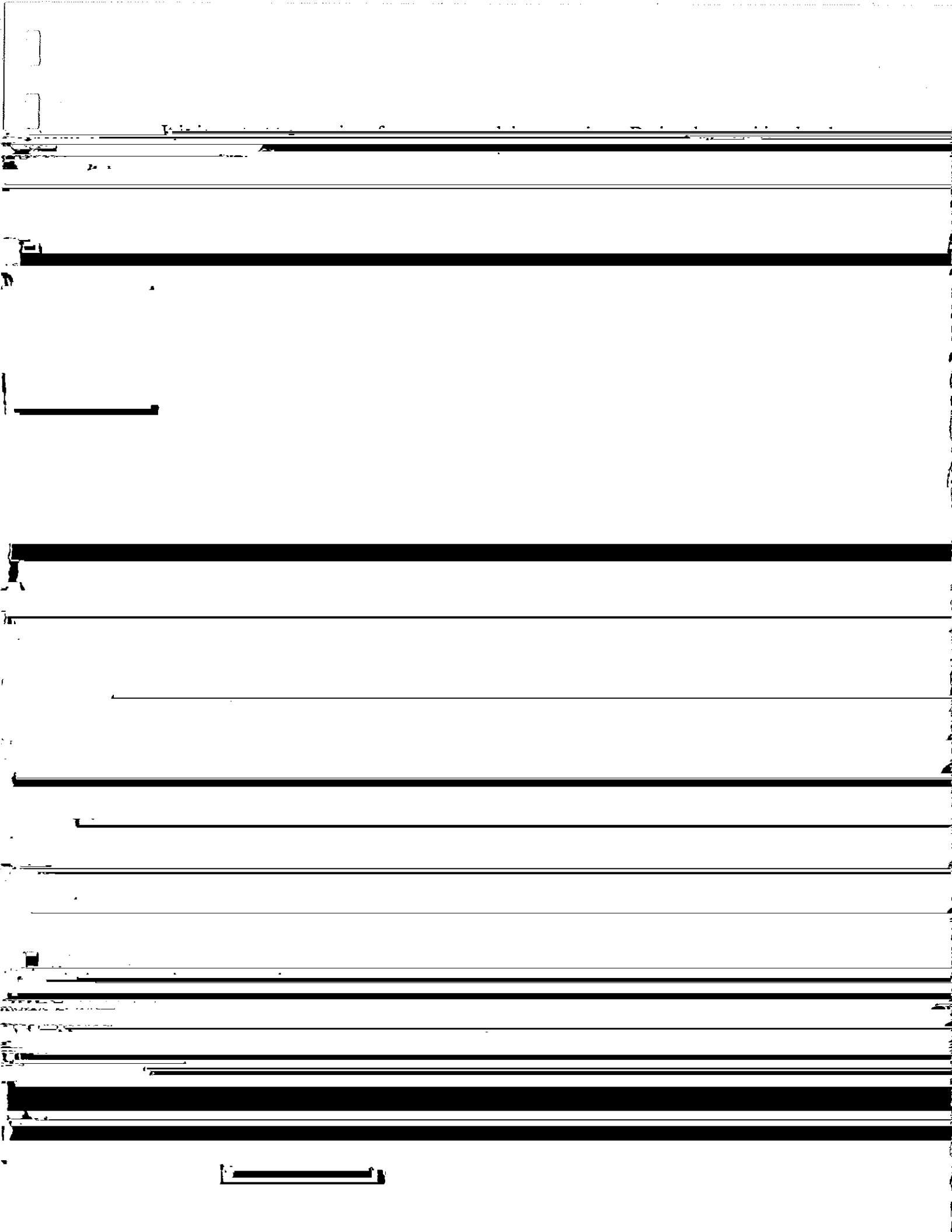
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Depending on the characteristics of the community, other options can be added to this

overall power delegated. there could be cases in which the delegation of individual powers is

used. For example, until they chose to exercise powers in some areas, aboriginal governments could delegate them to other bodies. Or, if governments cannot come to agreement over the entrenchment of some powers in the Constitution it may in the interests of federal, provincial,

For communities in which there is no possibility of access to original lands, there is a variety of possible options.⁴⁵ Specific lands could be set aside for the urban community through Crown land grants. Rent or royalty payments would help to develop economic self-sufficiency. Morse notes that this approach is limited by the lack of available Crown land in parts of southern Canada, particularly near urban areas. However, land could be set aside in more remote locations. An alternative would be to obtain privately owned land through expropriation or purchase by the Crown. This is probably the most realistic option if land is to be provided to aboriginal peoples living in urban areas.⁴⁶ Crown trusteeship of designated lands for the benefit of urban populations is a third option. However this alternative does not really fit the model of

5. Financing

Secure and sufficient financing is perhaps the key element in ensuring the viability of aboriginal self-governing arrangements. Studies of the implementation of existing self-government agreements have repeatedly observed the serious impediments to self-government

Revenues could come from economic development corporations and various special

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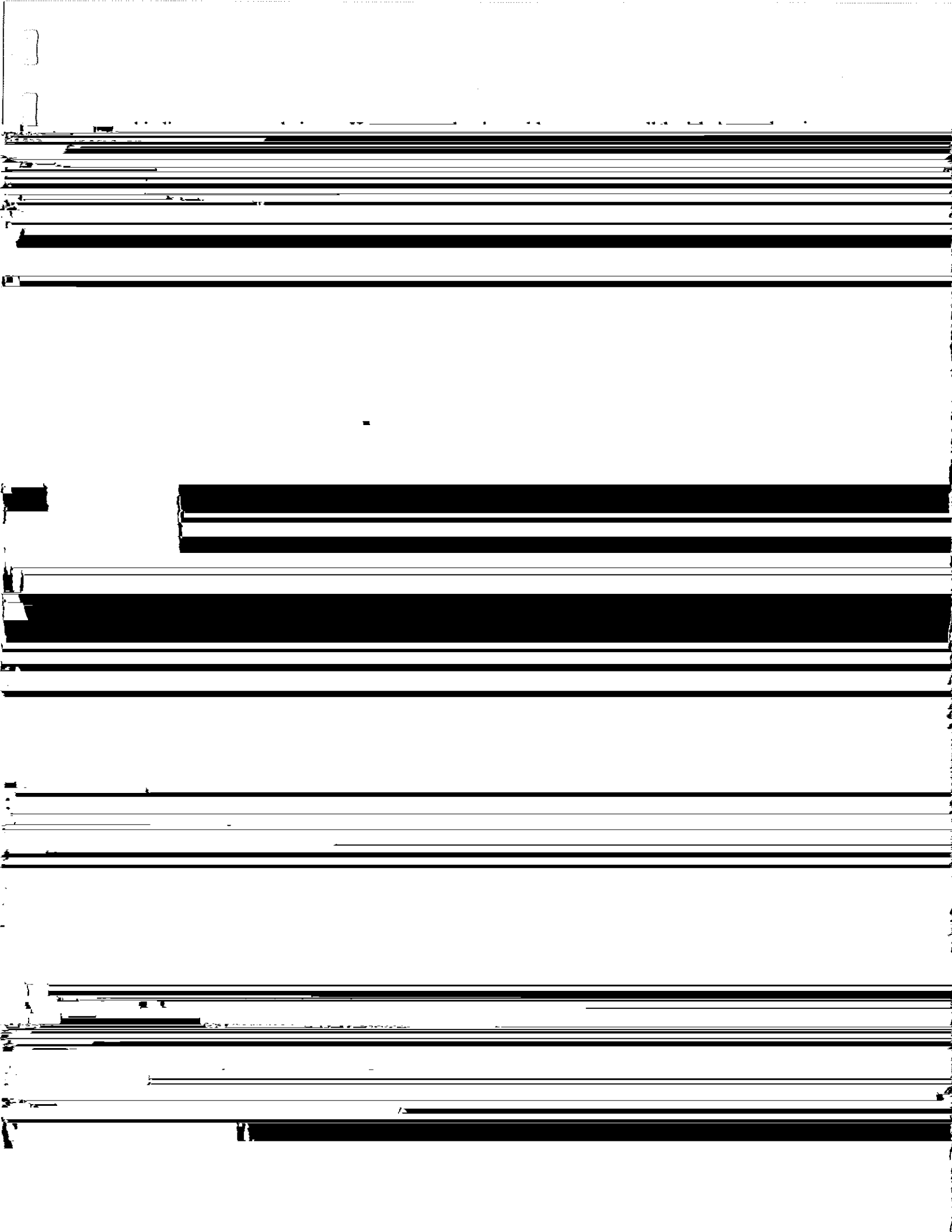
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1 Financing must exit the model of a-16 agreement...

develop both politically and economically. they can also develop more fiscal autonomy and less

Urban aboriginal governments may deal regularly with other aboriginal governments,
especially those located in close proximity to the urban centre. They may pool resources and



V. CONCLUSION

Developing self-governing arrangements for aboriginal peoples living in urban areas will not