

Thank you for the opportunity to make this submission on the Productivity Commission's November 2021 report titled Immigration "Fit for the Future" ("the report").

The report correctly notes (prior to *Finding 12*, for example) that the preamble to the Treaty of Waitangi concerns immigration. In particular, the treaty introduces itself as an agreement between, on the one hand, a representative of immigrants and would-be immigrants, and on the other hand, longer-established inhabitants of the land.

If New Zealand is to follow this principle established by the treaty, then present-day immigration policy should be made by an agreement among not only representatives of New Zealand's present inhabitants (both those with long histories here and those who've arrived more recently), but also representatives of would-be immigrants.

At present, while some immigrants do eventually obtain a right to vote, and some even become Members of Parliament, there is absolutely no formal representation of would-be immigrants in the process of creating and changing immigration law. Since would-be immigrants are those most tightly bound by immigration law, this is a clear violation of the principle of government by the consent of the governed, or, in modern parlance, "nothing about us without us".

As a first step towards taking into account the wellbeing of would-be immigrants, the Productivity Commission should undertake or commission research into the effects of exclusion on would-be immigrants and their communities.

Some might argue that the government has a responsibility to look after the welfare of its own citizens before concerning itself with the welfare of outsiders, in much the same way as parents are expected to look after their own children before concerning themselves with other people's children. But most New Zealanders would find it morally reprehensible for a parent to use the threat of force to exclude other people's children from their neighbourhood "perhaps more reprehensible if the exclusion was selective, based on the national origins of the other children. But this selective, discriminatory exclusion is exactly what New Zealand's current immigration restrictions entail.

The government could choose to look after its own citizens in other ways. For example, instead of entirely excluding would-be immigrants, it could allow all peaceful people to live and work in New Zealand, with the understanding that they won't receive any social welfare unless they obtain a visa or other similar legal recognition. I don't believe that even this level of exclusion of immigrants would be necessary for the wellbeing of citizens, but it may make the removal of other exclusions more politically acceptable.

If, under such a system, a significant number of migrants end up living here in poverty (which I don't believe would necessarily be the case), it might create the appearance of discrimination, or even racism, in government policies. But in fact, it would merely be making visible the discrimination and racism inherent in the policies that already exclude people who were born in poorer countries; New Zealand's present law is merely keeping the poverty and discrimination out of sight and out of mind, by excluding people from New Zealand on the basis of their national origins and their poverty.

The report notes (in *Findings 6 and 8*, for example) that population increase has been putting pressure on New Zealand's housing and infrastructure. But if the government adjusts immigration levels to suit the supply of housing and infrastructure, without putting equal effort into reducing the population growth that results from births and from citizens returning and remaining here, then the policy is nothing short of xenophobic. Furthermore, it would create a mechanism for potential future xenophobic governments to restrict immigration by restricting the supply of housing and infrastructure, and then claiming that their hand was forced on immigration policy.

Regarding *Question 5*, if the government restricts the right to return for "permanent" residents but not for citizens who leave the country for long periods, it would be discriminating on the basis of national origin. A citizen who shows no commitment to New Zealand should not be given special preference over anyone else.

I heartily agree with the first two sentences of *Recommendation 8*. While the third sentence is a stark improvement over the status quo, it would again be discriminatory and xenophobic if the government didn't also apply the same restrictions on internal migration (for example) to citizens.

Concluding recommendations

The Productivity Commission should research the effects of immigration restrictions on the wellbeing of those who are restricted and their communities.

New Zealand should vastly reduce the restrictions placed on migrants and would-be migrants. (This relates to *Question 4*, among other things.) Any remaining restrictions should be negotiated with representatives of those who would be restricted. The remaining restrictions should, in general, not discriminate against people on the basis of their race, economic status, or national origins; the same restrictions should apply to New Zealand citizens.

Regarding *Findings 6 and 8*, New Zealand should not tie immigration policy alone to the supply of housing and infrastructure. If immigration is to be discouraged, then the return of citizens should be equally discouraged, and emigration and contraception should be equally encouraged.

Regarding *Question 5*, the government should not restrict permanent residents' rights to return.

The first sentence of the report's *Recommendation 8* should be implemented.