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The Role of the State

The Question of Fair Access to Higher Education

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Abstract

Given the massive expansion of higher education systems around the world and the private benefits associated with obtaining a university degree, there is constant pressure on higher education sectors to ensure fair access to universities and colleges. Nonetheless, there is significant disagreement on what exactly constitutes fair access to higher education. This thesis presents two conflicting contemporary conceptions of social justice that have varying implications for the development and evaluation of existing access schemes. The analysis of three case studies, the United Kingdom, Germany and Portugal demonstrates that principles of both conceptions of justice can be found in today's higher education systems. It is the aim of this thesis to elaborate on the practical implications of theoretical approaches of justice and to determine which of the analyzed countries has established a system of fair access to higher education.

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1. Introduction

The debate about fair access to tertiary education is a contemporary debate. Traditionally, tertiary education was limited to an elite group of students from the upper class (Meyer 2013, 15-40). For example, in academies of ancient Greece it was understood that only sons of families with appropriate monetary means had the privilege to obtain higher education. Similarly, in medieval universities in continental Europe, only students that could afford to pay tuition to their master could be educated to a higher degree. There were only a very limited number of stipends available to support students with fewer financial means. Likewise, higher education in England has a long tradition with Oxford and Cambridge that solely granted access to men from privileged families. Ancient universities would not only exclude students based on their socioeconomic background, but would also exclude students on the basis of gender, race or ethnicity. However, restricted access to higher education was not put into question. Higher education was a tool to reinforce social division between classes. Its purpose was to shape the mind and character of the ruling class and prepare privileged men for their rightful positions of leadership within the society (Trow 1976, 7; Baber and Lindsay 2006, 147) .

The end of World War II and the industrial revolution initiated a period of change. The industry required more technically trained professionals and with the extension of political rights, demands for equitable access to higher education were raised. Higher education reached the stage of mass system, where 15% to 50 % of the eligible population would enrol in higher education. For example, in the United Kingdom, the number of enrolments in tertiary education doubled between 1900 and 1938. In accordance with the expansion of the system, the purpose of higher education shifted. As opposed to shaping the characters of students and preparing them for future leadership, the emphasis of higher education shifted to the transmission of skills required for technical elite roles (Trow 1976). Higher education became an important tool to stimulate economic growth by providing various industries with skilled labour. Moreover, it was recognized that the expansion of the higher education system entailed important social benefits for the whole society. Higher education provides increased opportunities for social mobility. In addition, increased income levels are associated with a higher education degree. For that, various forms of government aid emerged to widen access to higher education and the academic world opened up for women and underrepresented groups worldwide. Trow (1976) argues that if a higher

education expands, and enrolment rate of the age cohort increases to more than 15%, attitudes towards access change and people start seeing entry to higher education as a right rather than a privilege. Following this reasoning, higher education was increasingly funded by the means of public funds and free or low-cost entry to universities became the norm in many countries (Asplund, Adbelkarim, and Skalli 2008).

With the dawn of the 21st century, tertiary education approached in many countries a universal system, that is characterized by enrolment rates close to 50 %t of a given age cohort. As the economy shifted from an industrial to a service economy, knowledge workers become the majority of the workforce. The so-called 'knowledge economy' requires increasing intellectual capital and recognized the importance of higher education. For that, high educated individuals are crucial for a countries future competitiveness (Heitor, Horta, and Leocádio 2016). Moreover, on the individual level, some form of higher education is necessary in many countries to compete in the labour market. Attending some form of higher education institutions is often seen as obligation for children from the middle and upper classes and failure to do so is increasingly viewed as defect of mind or character that one has to justify (Trow 1976).

With high enrolment rates above 40% in many industrial countries, societies are confronted with many problems. As higher education is an important determinant for future labour market success, the private benefits of college degrees become an important topic of discussion. Higher education provides students with increased earning potential and for that, it seems to be fair to shift the financial burden of tertiary education to students and their families. Moreover, as the higher education system expands, funding the system entirely with public funds becomes unfeasible (Asplund, Adbelkarim, and Skalli 2008). Nonetheless, the enormous benefits of higher education raise concerns about fair access to universities. It is acknowledged that everyone is entitled to some level of education, however, should this right extend to higher education? Is it the role of the state to provide higher education to everyone that is capable? Contemporary political theories offer various answers to this question. While most agree that fair access to tertiary education is very important, there is considerable debate on what constitutes fair access to tertiary education. In addition, policy makers are not only faced with different theoretical conceptions of fair access but are also exposed to contextual political, economic and social pressures. For that, governments have had to redefine their financial roles in the provision of higher education as well as well as their administrative and

political roles in the higher education sector. This thesis presents and compares three different European higher education systems that offer different solutions to the question of fair access to higher education: Germany, the United Kingdom and Portugal. For instance, in Germany the role of the state in regulating and financing the higher education system is profound, whereas institutions in the United Kingdom are largely autonomous and can raise high tuition fees to cover their expenses. The Portuguese government tightly controls the higher education sector; however, funding is distributed among private and public entities. Given those varying answers to the challenges associated with mass higher education, which of these systems does provide fair access to higher education?

The aim of this thesis is to address the competing perspectives on fair access to higher education on a theoretical level, while also assessing their concretization and success in specific national contexts. Ultimately, this thesis answers the following research question:

What constitutes fair access to higher education?

In order to answer this research question, the following sub-questions are addressed:

a. What is the connection between social justice and access to higher education?

b. What are the different theoretical conceptions of fair access to higher education?

c. What are the practical implications of theoretical conceptions of fair access to education?

This research will contribute to existing knowledge by providing a critical analysis of underlying normative principles of access to higher education. It sets different political concepts into contrast and provides an overview of contemporary perspectives on the role of the state in regulating higher education systems. Although there is much literature regarding fair access to higher education, a lot of the research is limited to comparing different educational systems around the world, without much regard to the underlying theoretical conceptions on social justice ((Clancy and Goastellec 2007). Furthermore, some researchers do consider the underlying conceptions of social justice but confine themselves to one conception, without taking alternative approaches into account (Gewirtz 1998; Wilson-

Strydom 2015). This thesis however, elaborates on conflicting theories of justice and uses the insights gained to compare existing higher education systems.

The thesis answers the research question and subsequent sub questions in three chapters. The first chapter describes two opposing theoretical conceptions of justice, which influence higher education systems around the globe. Both theoretical conceptions are introduced and analyzed with regard to their consequences on access to higher education institutions. The next chapter introduces the three case studies that are discussed in this thesis: the United Kingdom, Germany and Portugal. The higher education systems of those three countries are then evaluated according to the two opposing theoretical conceptions of equity in access to higher education. A final chapter concludes the discussion by summarizing previous findings and by elaborating on their implications regarding the question of fair access to higher education.

1.1 Concept Definition and Scope of this thesis

Before proceeding to analyze fair access to higher education, the term 'higher education' has to be defined. The term is often used in literature interchangeably with the term 'tertiary education'; however, the two terms describe different educational pathways. The term higher education describes university programs according to the ISCED (International Standard Classification of Education)[1] classification 5A and 6, which only refer to the academic strands of higher education, largely theoretically based to provide entrance in to advanced research master's and doctorate programs. In contrast, the term tertiary education describes next to the ISCED classifications 5A and 6 also programs with the ISCED classification 5B. Those programs are shorter in duration and are more vocationally oriented, leading to direct labour market entrance. The focus of this thesis is on higher education, meaning the ISCED classification 5A and 6.

Furthermore, 'access' in this thesis is analyzed in terms of the first enrolment of students into higher education institutions. Certainly, discussions about access to master and doctorate programs are highly relevant as well; however, this discussion is not within the scope of this thesis. Access to higher education depends on several factors that are discussed

[1] For a classification of all educational levels and programs see http://www.uis.unesco.org/Education/Pages/international-standard-classification-of-education.aspx

theoretically in the next chapter of this project. Further, those factors are analyzed practically in the third chapter of the thesis by evaluating three different case studies. For one, access depends on funding and the financial capability of an individual to enter higher education institutions. Thereby funding can either be targeted at the university or college or can be targeted at the individual. Universities mainly receive funding from the government, private households and other private entities. The role of the state in supporting institutions includes operational grants for teaching and research or capital investments paid directly to institutions. Private households fund universities by paying tuition fees or charges for ancillary services. Other private entities support universities through donations or grants as well as payments for consulting, patents and other services. On the other side, instead of funding institutions, students can receive direct funding in order to enrol into a higher education program. For example, students can receive financial support from the governments, grants and scholarships from private institutions, financial support from the family and partner or might apply for a loan. Depending on the higher education system in place, a student has different obstacles and opportunities in accessing higher education.

A second factor that shapes access to universities and colleges are the selection criteria used to allocate places at the different educational institutions. In most countries, successful completion of upper secondary education is a requirement for university entrance. Additionally, governments might use national entrance exams to allocate vacancies. Institutions might introduce selection criteria by themselves, for instance, they might require a particular high school grade point average to enrol in specific subjects or faculties. Therefore, selection mechanisms influence access to higher education substantially.

2. Theoretical Conceptions on Fair Access to Higher Education

This first part of the thesis traces two different theoretical lines of reasoning about fair access to higher education. First, the common sense approach explores access scenarios that are easily deemed as just or unjust by people. This line of reasoning can shed light on unjust practices when designing higher education systems. Second, the normative approach introduces formal political theories that determine fair access to higher education by tying it to a specific conception of social justice. Particularly, two competing conceptions of social justice are discussed, libertarianism and egalitarianism, that both offer different solutions for designing fair access to universities and colleges. Thereby, both theories assign contrasting responsibilities to the state in regulating and funding the higher education sector.

2.1. The Common Sense Approach

When reasoning about access to higher education the concept of fairness seems to be abstract and vague. What exactly is a fair system? It is usually much easier to agree on what constitutes an unjust educational system. For example, exclusion of individuals from higher education based on wealth, race, gender, ethnicity or sexual orientation does seem very unjust. Similarly, bribing university officials to enrol in higher education institutions, pulling family strings to achieve favourable treatment in the admission process or being admitted to a program based on political affiliation or political correctness do not seem to be fair methods to allocate university places. Nevertheless, one can observe this seemingly unfair treatment in many countries around the world. For example, in the United States one can often witness preferential treatment of historically disadvantaged groups in the admission process to colleges. Moreover, getting into university by pulling strings behind the scene is often accepted as a legitimate use of social capital that is argued to strengthen the loyalty of alumni of the institution. Furthermore, holding a certain political or philosophical view might be one of the legitimate selection criteria for specific programs, especially in social sciences (Meyer 2013, 20).

And then there are the cases that appear to be unjust at the first sight but that are not easy issues to resolve. For example, barring someone from accessing a university by missing some threshold test score, perhaps by a tiny fraction, does not seem to be fair. However, how should students be selected? Lowering a certain threshold to allow everyone to enter higher

education would decrease the quality of the university system. More students require either more financial resources or bigger classes and a bigger teacher student ratio. Nevertheless, a meritocratic access scheme is widely used regardless its drawbacks. It is believed to allow access for people from all backgrounds, not excluding potential students based on gender, ethnicity or social origin. But then, is it fair for the less talented to get less education? Moreover, what is the correct way to measure intelligence, merit or talent? It is difficult to measure merit unambiguously and systems of narrow measures of ability might fail to account for valuable skills that cannot be measured by tests, such as athletic or musical talent (Atkinson 2001).

To summarize, there is an inescapable plurality of competing principles. Although a meritocratic access system would not exclude individuals based on their ethnicity, gender or social origin, it conflicts with other important goods such as creativity, growth and choice. Cases that are seemingly unjust at first sight are fuzzy around the edges and rules that are seemingly just become unjust when stretched beyond a certain point. For that, this thesis looks at several formal theories of justice and fairness that might lead to a clearer picture regarding fair access.

2.2 The Normative Approach

Looking at the common sense approach above, one can observe that people seem to be concerned with what is fair, and what is just, when allocating high school graduates to higher education institutions. The next part of this thesis elaborates on more formal theories of justice that shall shed light on the question of fair access to universities. Yet, what are formal theories of justice and why can they help determine if access to higher education within a specific system is just? In his book 'Elements of Justice' David Schmidtz describes justice as a neighbourhood and a theory of justice as a map of this neighbourhood. He describes that even

> 'the best theory will be incomplete, like a map whose author declines to speculate about unexplored avenues, knowing there is a truth of the matter, yet leaving those parts of the map blank. A theory revolves toward representing the neighbourhood more completely, in the hands of future residents who have more information and different purposes, even as the neighbourhood itself changes' (Schmidtz 2006, 4).

The rules of justice, the maps theorists provide, tell us not only what to expect from each other but what to count as affront. When arguing about justice, one argues about 'giving people what is due to them, and not giving them what is not due to them' (Swift 2006, 11). This definition ties justice to duty and thus, to what we have the obligation to do. Justice is about the nature of a fair society and the search for a fair distribution of resources (Singh 2011, 482). It is therefore about the relationships of the individuals within society to each other and about their relationship to the state.

Nevertheless, there are many different conceptions of social justice and authors disagree on what exactly constitutes a fair distribution of resources. As Schmidtz (2006) argues, theories of justice are maps and 'no map presents the only reasonable way about seeing the terrain'. The debate about the conception of social justice entails a debate about the scope and content of enforceable duties. Since the state acts as the collective agent of citizens, predominant conceptions of justice can have drastic repercussions for the role of the state as well as the general power of governments, citizens and society as a whole. The state is justified to use its coercive power to ensure that people carry out their duties and that they do what they would not voluntarily. In some cases, enforceable duties are easily agreed on as in the case of murder: we have the duty to not kill each other and the state does right in enforcing such a restriction. Still, the concept of social justice includes much more complicated duties. For example, do productive people have the duty to forgo parts of their income to help less fortunate people? This question is indeed very relevant for the discussion of fair access to higher education: Do taxpayers have the duty to help people who cannot afford higher education? Who should finance a higher education system? Different theories of justice give varying answers to such questions. Additionally, justice is not the only principle important for political institutions and the society. As one could see in the previous discussion, the principle of justice might conflict with other competitive principles such as liberty.

In the following part, two conflicting conceptions of social justice are introduced. Both conceptions were chosen not only due to their notable influence on policy making throughout the last decade, but also due to their role in shaping educational systems around the globe. The first section discusses the libertarian conception of justice, which is today most compliant to the educational system of the United States and likewise influenced access to higher education in the United Kingdom during the Thatcher government (Meyer 2013, 26;

Palfreyman and Tapper 201647). Next, the chapter explores the effects of a libertarian system on access to higher education by analyzing chapters on the topic by Friedman (1962) and Hayek (1960). The second conception introduced in this chapter is egalitarianism. Egalitarian higher education systems are mainly implemented in Scandinavian countries but have all the same shaped higher education access in Germany. Broad egalitarian theories are presented and applied to the higher education sector.

2.3 Libertarianism

Although there are different branches of libertarian thought and theories may differ in some foundational assumptions, there are some features that libertarian theories share: the belief that the government should be limited to protecting the life, liberty and property of each individual and the belief that civil society, that is the whole social order based on private property, is a spontaneous order that runs by itself.

First and foremost, libertarians argue that society needs a system of individual property rights to avoid constant conflicts about pieces of property and to engage in social cooperation. Looking through the libertarian lens, well-defined property rights and free exchange are the only alternative in paving the way towards prosperity, in a society bigger than a small village. What is more, libertarians emphasize that individuals should be free to life their lives as they choose provided that they respect the rights of others.

Robert Nozick is one influential libertarian thinker that elaborates on the importance of extensive property rights and his book *Anarchy, State and Utopia* is one of the cornerstones of libertarian thinking. His foundational assumption is that every individual has the right to self-ownership and correspondingly the duty to respect the self- ownership of other individuals[2]. Nozick proposes an entitlement theory that contains three major principles: The principle of justice in acquisition, the principle of justice in transfer and the principle of rectification of injustice in holdings (Nozick 1974, 150). The principle of justice in acquisition concerns the acquisition of a resource that has never been held before. If one acquired the resource with legitimate means, the person would be entitled to his holding. The principle of justice in transfer concerns the transfer of holdings from one person to another. If the process of transferring holdings is just, the person is entitled to his holdings. This would include the voluntary exchange of goods or the transfer of gifts. Nozick adds a third principle,

[2] The concept of self-ownership was originally developed by Locke. See Locke (1689).

the principle of rectification of injustice in holdings. The rectification principle is aimed at correcting previous violations of the first two principles. A distribution is just if everyone is entitled to the holdings they have acquired according to the first two principles of the entitlement theory. Thus, Nozick claims whatever property distribution results from uncoerced contracting is just.

In this fashion, the role of the state is to protect the property rights of individuals and ensure the free exchange of goods within a society. Richard Epstein (1987) explains in his article 'Self- Interest and the Constitution' why government needs to be limited in order to secure said individual rights. The author argues that a constitution, designed to govern a nation, must content to the driving force of human nature, which is self- interest. Individuals demonstrate different levels of self- interest and people who are in positions of power and demonstrate high levels of self-interest can prove to be perilous to society. Individuals are endowed with diverse characteristics and talents; hence, self-interest manifests itself differently in every individual. Some satisfy their self-interest by cooperating and competing with other individuals whilst others gain more from the use of force and violence. In spite of this fact, whereas voluntary bargains benefit all parties involved as well as the larger society, the use of violence only benefits one party and does not result in any external benefits for the larger society. For that, powerful individuals with high levels of self-interest may constitute danger to society. Therefore, a constitution should facilitate cooperation and competition while limiting the use of violence and force. In order to do so a constitution should vest in 'The Sovereign' the role of controlling violence (Epstein 1987, 154).

Per contra, who is the sovereign that should have the power to control violence and force within a society? There is the risk such sovereign gives in to his own self-interest and fails to protect the individuals within a given society from force and violence. Epstein argues that the sovereign itself becomes the problem. One must constrain the possible misconduct of the sovereign while simultaneously allowing him to keep peace and order. Along these lines, Epstein suggests a limited form of government to ensure peace and freedom as well as competition and cooperation within society. Checks and balances paired with a division of powers would restrict the monopoly and misconduct of the sovereign. Furthermore, he argues, government power would have to be limited in all areas of life. A limited government would have the power to prohibit violence and force all the while being itself restricted in its misconduct.

Even though a large part of libertarian authors would support the idea of a limited form of government, some authors stake out a more radical position within libertarian scholarship. Namely, Murray Rothbard (1973) argues that all libertarians should regard all forms of state as 'the supreme, the eternal, and the best organized aggressor against the persons and property of the mass of the public'. Therefore, he asserts that all goods and services, including law and justice, should be provided without a coercive government. With regard to prevailing government systems, he claims that nations are ruled by coercive elites that have gained control over the government machinery. Not even a constitution and the division of power can protect individuals from the coercive power of the state itself. Rothbard explains that no constitution can interpret or enforce itself. On the other hand, the supreme court of the government ultimately possesses the power to interpret any constitution according to its own agenda. Accordingly, the state has a monopoly over the provision of protection and there is no alternative agency that can protect individual freedom (Rothbard 1973, 44). With this position, Murray Rothbard can be categorized as an anarcho-libertarian. Even though he might occupy a more radical position among libertarian scholarship, he shares his scepticism about power with other libertarian thinkers. A strong central government can make use of its coercive power to limit individual freedom. Thus, according to the libertarian conception of justice, a society needs entrenched individual rights and limited government to protect its citizens from state coercion.

The second key insight of libertarian social analysis is the concept of spontaneous order. The contemporary libertarian scholar Michael Polanyi describes spontaneous orders as follows:

> 'When order is achieved among human beings by allowing them to interact with each other on their own initiative- subject only to laws which uniformly apply to all of them- we have a system of spontaneous order in society. We may then say that the efforts of these individuals are coordinated by exercising their individual initiative and that this self-co-ordination justifies their liberty on public grounds. The actions of such individuals are said to be free, for they are not coordinated by any specific command […]' (Polanyi 1961, 293).

Examples of spontaneous order include law, language, the market and the society as a whole. Those unplanned, competitive processes create order without being centrally planned.

F. A. Hayek distinguished those kinds of self-generating, grown orders from made orders such as an army or an organization. A made or artificial order like an organization is quite simple and confined to moderate degrees of complexity. Made orders serve a concrete purpose and can be planned. Hence, one can influence the details of such an order. In contrast, grown orders are abstract constructs that do not serve any concrete purpose. Yet, they are essential for society. Its degree of complexity is not limited to the boundaries of a human mind and the order may be based on purely abstract relations. As Hayek describes it, a spontaneous order is 'a system of abstract relations between elements which are also only defined by abstract properties' (Hayek 1973, 39). Those elements may not be intuitively perceivable and the order persists even if its elements may change. It is difficult to explain such orders, to determine its elements and to observe all the circumstances in which those elements are placed. Hence, opposed to a made order, one can only influence the general character of the grown order and not its details (Hayek 1973, 41).

The fact that one can only influence the general rules of a spontaneous order and not its details provides the main argument for non-interference in the spontaneous market order. General rules of conduct are important for the success of a spontaneous order; nevertheless, direct commands would disrupt its processes. The desire to influence the specific position of an element or the relationship between individuals and groups would not be satisfied without upsetting the overall order (Hayek 197342). One can attempt to improve the underlying rules that guide individuals within a spontaneous order, for example, to guide the behaviours of individuals within the market. By that, one can make use of the dispersed knowledge of all members within the market. In contrast, when giving direct commands one would 'refer to a part of a system of interdependent actions determined by information and guided by purposes known only to the several acting persons but not to the directing authority' (Hayek 1973, 52). When given direct commands, members of the spontaneous order would not have the possibility to use their specific knowledge that serves their own purposes. It follows that libertarians advocate free markets without government redistribution of goods. Within a free market order, individuals can follow their own conception of the good and are able to acquire and exchange property with the only requirement being that they do not violate the rights of

others. The attempt to alternate the results or details of this or other spontaneous orders would result in discoordination, poverty, and social conflict (Boaz 1997, 265)[3].

One should note at this point that by advocating extensive individual rights, limited government and non-interference in the market process, libertarians support a distinctly *negative* notion of freedom. This term was initially introduced by Isaiah Berlin (1990) and refers to 'freedom from', that is, the absence of interference by other people, including the state. According to this notion of freedom, people should be granted extensive civil and political rights that would protect individuals from coercive external intervention in their lives. In opposition, positive freedom refers to the 'freedom to'. With this notion of freedom, people would have positive rights to social and economic resources such as income, health care and welfare. Libertarians believe that negative rights should be protected whereas positive rights are not justifiable[4].

To summarize, libertarians support free economic markets, entrenched personal rights and limited government, thereby promoting a distinctly negative notion of freedom. By using market tools, individuals are able to pursue their own ends. Thereby any resulting distribution of resources is just, provided that everyone is entitled to his or her resources in the first place. Government therefore has to be limited and individuals have to be protected by personal property rights. The next sub-chapter shall demonstrate which consequences libertarian theories would have on the education sector in general and particularly on access to higher education.

2.3.1 Libertarianism and Higher Education

The next part of this chapter elaborates on a libertarian conception of fair access to higher education. What would libertarianism imply for access to higher education? Libertarian views on two determinants of access are discussed. Firstly, the funding of the system is discussed, which influences a student's decision and capability to enter higher education. Second, this section elaborates on appropriate access criteria for students from a libertarian point of view. Especially relevant for this section is the book '*The Constitution of*

[3] For an in depth discussion of the spontaneous order of the market please refer to Hayek's essay on the 'Use of Knowledge in Society' published in 1945. Specifically, the author elaborates on the mechanisms of the price system that makes use of the dispersed knowledge of all market participants.
[4] For a detailed explanation of the negative and positive notions of freedom see Berlin (1990)

Liberty' by Friedrich A. Hayek and the book *'Capitalism and Freedom'* written by Milton Friedman. Both books contain chapters that elaborate on the role of the state in regulating higher education and demonstrate how a potential practical implications of a libertarian access scheme.

Regarding funding, libertarians generally believe that the financial burden of higher education should be borne by the individual student or private sponsors, nonetheless F.A. Hayek (1960) and Milton Friedman (1962) explain to what extend government intervention can be justified in the market for education. For one, there is a paternalistic concern to educate children. Second, and most importantly, the external benefits of education are a rationale for governments to intervene in the market mechanism (Friedman 1962, 86). Friedman names those external benefits of education 'neighbourhood effects'. They occur if the actions of an individual impose significant costs or benefits on others, being it that those who benefit are not able to compensate the aforementioned individual for it and that the individual cannot compensate others for the associated costs. For instance, educating an individual contributes significantly to the welfare of a democratic society, as individuals need literacy and basic knowledge in order for a democracy to prosper (Friedman 1962, 86; Hayek 1960). Educating a child therefore benefits the whole society but it is impossible to compensate the child for its contribution to the society's welfare. As education entails benefits for the whole society, the state's role is to ensure a basic level of education for all individuals. In spite of such a fact, as opposed to selling a car if a family cannot afford to update it to the required safety standard, a family does not have the possibility to sell its child if it cannot afford the required standard of education[5]. Families have different resources and a different amount of children and may not have the financial means to secure basic education for them (Friedman 1962). On the basis of the neighbourhood effects of education and the varying financial resources of families, governments justify intervention in the market and assume financial costs of elementary schooling.

The neighbourhood effect argument can be extended to explain government intervention in the market for higher education. Friedman states that public expenditure for higher education can be justified on the means of training young people for citizenship and community leadership, two externalities that are beneficial for the wider society. Additionally,

[5] It has to be noted here that some libertarians do in fact argue in favor of a free market of adoption. See for example Rothbard (1982) in the chapter 'Children and Rights'.

higher education is frequently associated with greater productivity of graduates who positively influence their co-workers. Nonetheless, the neighbourhood effect argument is weaker for subsidizing higher education than it is for subsidizing basic schooling (Friedman 1962). The gains from subsidizing higher education have to be carefully balanced against its costs and Friedman (1962) argues there can be honest differences in determining the external benefits of higher education. At lower levels of schooling, people are more likely to agree on subject contents that are important for the education of every citizen. At higher levels of education, there is less and less agreement about the adequate content of courses and classes (Friedman 1962, 98). What is more, Barr (1993) argues that the higher education might be associated with higher productivity but does not cause it. In fact, an employer may not be able to determine whether high productivity of an employee stems from high level of education or natural talent and capability (Barr 1993, 722)[6].

A second reason to shift the financial burden of higher education to the individual rather than the state is the considerable private gains of higher education (Vandenberghe and Debande 2004; Asplund, Adbelkarim, and Skalli 2008). Not only does higher education generally lead to higher lifetime earnings and an improved living standard, it is also associated with better health and life satisfaction. Therefore, the taxpayer that does not participate in higher education by himself cannot be expected to fund a system that yields such high private benefits and which external benefits are hard to measure and highly debatable (Barr 1993, 718-728). Higher education cannot be named as a public good solely and calls for an appropriate mix between public investment and private contribution.

Furthermore, student mobility trends are another reason to decrease government substitution of higher education (Poutvaara 2004, 2). Students are increasingly using the opportunity to complete their studies abroad and use the funding mechanisms that other countries provide. If governments are subsidizing higher education, they give equal treatment to international students and national students both. Thus, as international students tend to move back to their home countries after completing their degrees, the host countries do not receive the social benefits associated with university graduates. As a result, host countries subsidize higher education costs of sending countries. This causes free-riding problems, especially if a host country receives more international students than it is sending out. This is the case in the United Kingdom, which receives the highest number of non-national students

[6] For Barr's complete theory on the signaling mechanism in higher education see Barr and (2005)

within Europe (Vandenberghe and Debande 2004). For that reason, shifting the financial burden of higher education to individuals would reduce those free-riding problems.

On the other hand, tuition fees might impose significant liquidity constraints on students, particularly on students from lower socioeconomic background who cannot be supported by their families. For that, libertarians propose loan schemes that allow students with few financial means to enrol in higher education institutions. Nevertheless, traditional loan schemes such as mortgage typed loans are problematic. Students cannot provide any collateral other than their future earnings. In addition, even though the average return on higher education is high, it varies strongly among individuals (Asplund, Adbelkarim, and Skalli 2008, 17; Vandenberghe and Debande 2004). Consequently, it is very risky for banks to invest in students. To make up for these risks, nominal interest rates for such loans would have to be sufficiently high, which would in turn make them unattractive for borrowers (Friedman 1962, 103).

Income contingent, limited liability loans provide an alternative to traditional loan schemes that are claimed to reduce risk and debt aversion of potential future students. Shareholders could 'buy' a share of an individual's earning prospects and the individual would agree to pay the lender a specified fraction of his future earnings. The amount that is to be paid back depends on the future income of the students, making this scheme more attractive for the borrower. The highest amount to be paid back by high earning graduates is the loan plus interest, whereas low earning graduates would not have to fully pay back their loans (Garcia-Penalosa and Wälde 2000, 703). It is however noteworthy, that this loan scheme can be costly for the public as well, as the taxpayers would have to subsidize the low-earning students. Friedman argues nonetheless, that even if this system is costly, it might be an alternative to the overinvestment problem created by the direct attribution of subsidies from the state to higher education (Friedman 1962, 105). In that case, students would claim education as long as its returns would exceed their private costs and not consider the costs for the government in their decision. In turn, government would have to limit its subsidies in similarly limit access to higher education institutions.

Bearing this in mind, another access mechanism has to be analyzed: the selection of proper students. A libertarian conception of social justice, suggests that places at universities should mainly be allocated using the market mechanisms of demand and supply. Students, the

consumers of education, are better informed to make choices and information about universities is simple enough to be properly evaluated by students. It is more efficient to allocate places in institutions based on student demand rather than allocate places through the government.

Hayek (1960) describes conflict between prolonging education for all and providing higher education for a smaller elite group. Prolonging education for all would make everybody equal and give them the same opportunities. No child would receive more education than can be given to all children. Hayek claims that this equal scenario can only be realized for elementary education. Prolonging education for all would eliminate personal advantages such as natural ability and talent. It would eliminate all natural effects that cannot be controlled. However, Hayek believes that civilization can only advance if individuals make use of their natural abilities and equalization of educational opportunity is an ideal that is impossible to achieve (Hayek 1960, 385).

By some method, society must promote natural talent and select certain individuals for higher education. For instance, individuals can be selected based on their intellectual capability to succeed at a university or college. Children from poorer families that show capability can be financially supported to access higher education. Nonetheless, Hayek underlines that this should not be a right for every intellectual capable child. A selection method solely based on intellectual capability would promote a sharper class division, as higher education typically generates a higher future income. Thus, intelligent people would be stimulated to move to a wealthier class whereas less intelligent people would be destined to life in a poorer class (Hayek 1960, 384). Furthermore, this method may produce too many intellectuals and only few possibilities to employ them. Capacity at universities is limited, and not all places can be allocated based on capability. Families that value knowledge should have the opportunity to make a financial sacrifice to send their children to school, even if they show less intellectual capability than other children. Even more, it is hard to measure capability, merit or talent- groups that develop qualification tests would determine which kind of children should be selected for higher education (Hayek 1960, 387). Further, a single group should not determine which children should receive financial aid for college. Instead, Hayek suggests that many different groups within the society can assist young members to access higher education. Those groups may have different preferences and different selection criteria, such as merit, talent, motivation or need. Thus, there would not be a single method of

selection, meaning that individuals from all backgrounds would have the chance to receive financial aid and class division would not be enhanced.

A possible libertarian access system would emphasize competition between higher education institutions, foster quality at universities and maximize individual choice. State intervention would thus be kept to a minimum. In the case of Nozick, everything that results from uncoerced contracting is just. That system would allow inequalities since some individuals would receive a better education than others and as a result, they would become socially advantaged over others. Those inequalities would not be considered unjust for libertarian thinkers given that it reflects naturally occurring differences between individuals. Furthermore, government cannot decrease such inequalities without producing counterproductive effects and decreasing individual liberty (Meyer 2013, 27). Notwithstanding, Meyer (2013) argues, that there would be increased philanthropic efforts to support prospective students. He claims that philanthropy grows in a country where government is less intrusive and civil society takes on the role of equalizing inequalities (Meyer 2013, 27). Those are powerful arguments in favour of a libertarian access scheme. Nevertheless, the system is argued to have many shortcomings. In the next section, general criticism to libertarian thought and arguments against a libertarian access scheme to higher education are discussed.

2.3.2 Criticism of Libertarian Thought

Libertarian theories advocate a negative conception of freedom and rely on the efficient functioning of the market. On that account, criticism of libertarian systems often starts by their conception of freedom and pointing out the limitations and failures of the market. Concerning the first aspect, Philipp Van Parijs provides a prominent contemporary critique of the libertarian conception of freedom. He argues that freedom from coercion, freedom in the negative sense, and self-ownership may be necessary for freedom but are not sufficient to fully achieve it. Instead, Van Parijs promotes a different understanding of freedom, which he calls 'real freedom'. According to Van Parijs, people are only really free if they are able to do the things that they want to do (Van Parijs 1998, 23)[7]. In such a case, a person may be theoretically able to join a cruise around the world, yet, he does not have the

[7] See also Cohen (1995), Plant, Taylor-Gooby and Lesser (2009)and Anderson (1999) for similar definitions of real freedom.

monetary means to actually join the cruise- he lacks the real freedom to join the cruise. That being so, solely a negative notion of freedom is not sufficient. Instead, Van Parijs claims that one needs to add *opportunity* to do the notion of freedom, therefore creating a real conception of freedom.

With regards to the second aspect, Raymond Plant (1984) points out several market limitations in his pamphlet 'Equality, Markets and the State'. He claims that even though the market is not a moral actor by itself, society should respond to unjust market outcomes. Further, he argues that even though market outcomes may be unintentional, they are predictable: misfortunes fall heaviest on those least able to bear such burdens. The ones in society who are best equipped with resources are more likely to get the best outcomes from the market. Therefore, one might argue that the market does not allow everyone to pursue their own interests since some do not possess the resources necessary to pursue their wants and wishes in the market place. Similarly, to Van Parijs, Plant argues that negative rights do not ensure an equal or fair value of liberty. One needs opportunities and resources to take action in the market and some individuals do not have enough resources, due to limitations by nature or unintended human action in the market. Negative or procedural rights cannot secure these resources.

Plant presents further market limitations. It is claimed that markets are free because they register individual choices and are the nearest economic mechanism to a democratic political order. Additionally, markets are the most efficient way to match supply with demand. The argues that there are cases however where the market limits choice. First, the market is not the closest mechanism to a democratic political order. In a democratic referendum, votes are of equal values whereas in a market a wealthy person can pursue a much greater range of preferences than an economically disadvantaged person can. Second, the market does not allow for strategic decisions. Individuals participate in the market with limited knowledge and their actions may have unintended consequences. In summary, Plant points out several market limitations: members of higher socio-economic classes have more resources to achieve beneficial market outcomes, the market does not allow for strategic decision making and misfortunes fall heaviest on those with few resources.

One can extend these market failure arguments to the education sector. A libertarian access scheme would be indifferent to fairness of outcomes. As Plant claims, even though the

market is not a moral actor that can be blamed for such outcomes, society can respond to this injustice. Students from low-socioeconomic backgrounds may face high debts to finance their education and there might be no funding available for certain individuals. Therefore, critics claim, differences in income might translate into differences in lifetime learning opportunities and limited social upward mobility (Meyer 2013, 27; Poterba 1994, 14).

In addition, the private returns of higher education might not justify the shift of its financial burden to the individual students and their families. Higher education may generally yield high returns, however, they vary substantially among students and specifically among subject areas. Although income contingent loan schemes are said to provide insurance against uncertain educational outcomes, the system is criticized for not providing an equitable alternative to publicly funded higher education. First, the applicability of such a scheme is dependent on the national fiscal system and its administrative capacity to collect income-contingent loans. Considering not every national fiscal system is sophisticated enough to ensure the success of such a loan scheme it does not constitute a good alternative to a publicly funded system (Heitor, Horta, and Leocádio 2016).

Second, the loan scheme might not be an appropriate tool to reach out to students from low-socioeconomic backgrounds. Children from socially disadvantaged backgrounds are more risk and price averse compared to children from wealthier backgrounds and are therefore alleged to be more reluctant to take out student loans (Asplund, Adbelkarim, and Skalli 2008, 14; Chapman 2008, 82). One explanation for their debt aversion is that they face on average more academic uncertainty and are unsure about whether they will be able to pay back any loans. Furthermore, children form low-socioeconomic backgrounds face higher opportunity costs than children form wealthier families. Instead of being unable to earn money and simultaneously facing an increasing level of debt, they often choose to follow vocational tracks. On this account, loan schemes are criticized for not being an appropriate funding mechanism for higher education.

In summary, critics claim that an access scheme based on libertarian values might not be sufficient to ensure fairness in the higher education sector. A libertarian scheme can result in limited upward social mobility, reinforce class divisions and hinder students from low-socioeconomic groups to access higher education institutions. The conceptions of social justice discussed in the next subchapter of this thesis allegedly offer principles that foster social upward and promote students from low-socioeconomic backgrounds to enter higher education.

2.4 Egalitarianism

As opposed to libertarians, egalitarian interventionists generally advocate some form of welfare state and consequently some form of a 'just' distribution (Wolff 2003, 433). A pioneering work in this area was done by the philosopher John Rawls.

The author proposes a 'veil of ignorance' as a thought experiment whereby nobody knows his future position in society and does not even know which talents and natural abilities he possesses. Given this ignorance, individuals are not confronted with everyday bargaining problems that stem from different positions, talents and abilities when arguing about just principles. Hence, behind the veil of ignorance, members of society must choose rationally and collectively what is just and what not (Rawls 1967, 197). The thought experiment allows determining institutional arrangements from an original position. Based on this original position, Rawls argues, rational members of society would choose two principles of justice, the liberty principle and the difference principle, that determine the basic structure of society.

The two chosen principles define the rights and life prospects of every person within the society. According to the liberty principle 'each person has an equal right to the most extensive liberty compared with alike liberty for all' (Rawls 1967, 198). This principle refers to basic human rights such as the right to vote, freedom of speech and freedom from arbitrary arrest. The difference principle declares that inequalities are arbitrary 'unless it is reasonable to expect that they will work out to everyone's advantage and provided that the positions and offices to which they attach or from which they may be gained are open to all' (Rawls 1967, 198). For example, greater expectations granted to entrepreneurs encourage them to enhance economic productivity by creating technological improvements or by fostering innovation. According to Rawls, considering those inequalities in expectation benefit the lowest class, by making the economy more efficient, they should be permitted. In contrast, inequalities that do not promote the wellbeing of the least advantaged should not be permitted. Moreover, the difference principle requires equality of opportunity in order to ensure that positions and offices are open to all. The two principles should be applied to the basic structure of society, that is, to social, political as well as economic institutions and should 'regulate the distributive aspects of institutions by controlling the assignment of rights and duties throughout the whole social structure' (Rawls 1967, 198).

Whereas the first principle refers to basic human rights also valued by libertarian theorists, the difference principle involves a distributional aspect that is contrary to libertarian thought. First, the second part of the difference referring to open positions for all requires fair equality of opportunity. More specifically, Rawls states that

> 'those who have the same levels of talent and ability and the same willingness to use these gifts should have the same prospects of success regardless of their social class of origin, the class into which they are born and develop until the age of reason. In all parts of society there are to be roughly the same prospects of culture and achievement for those similarly motivated and endowed' (Rawls 2001, 44)

That requires for example, equal educational opportunities for all either by establishing a public school system or by subsidizing private schools. Further, equality of opportunity would also need to be promoted in a commercial setting by policing business behaviour or by preventing restrictions to desirable positions (Rawls 1967, 203).

To satisfy the first part of the difference principle, the expectations of every representative man have to be maximized, and inequalities can only be tolerated if they are to the advantage of the representative man that is least favoured by the system. Thus, Rawls concludes:

> 'the basic structure is just throughout when the advantages of the more fortunate promote the wellbeing of the least fortunate, that is, when a decrease in their advantages would make the least fortunate even worse off than they are' (Rawls 1967, 204).

Nevertheless, how can one identify the least advantaged group and how can one rise the expectations of that group? In order to identify the least advantaged group Rawls proposed a comparison of the different social groups based on an index of primary social goods. Those primary social goods are things that a rational man wants regardless of what detailed plans he has for his life. Rawls argues that there are things every rational man wants more than others. More specifically, according to Rawls, those primary social goods consist of rights, liberties, and opportunities and income and wealth (Rawls 1971, 79). By owning more of these primary social goods, a man has generally greater chances carrying out his plans and reaching his ends, whatever those might be. Consequently, the least advantaged group can be identified by

comparing the expectations of the different social groups in terms of primary goods. A man has greater expectations than another if his index of primary social goods is greater.

Further, to raise the expectations of the least advantaged group, the index of primary social goods must be raised. To raise this index, the primary social goods of the other groups have to be adjusted. In line with Rawls, this can be done by establishing a just basic structure and accordingly just social institutions. In order to achieve this, the government must regulate a free economy to a certain extent. The author suggests different government branches that should be responsible for regulating the economy, for instance, by maintaining reasonable full employment, adjusting the distribution of income and wealth over time and by simultaneously ensuring the efficiency of the economy. In summary, the least advantaged group is identified and supported in terms of primary goods. By regulating the economy to a certain extent whilst adjusting the indexes of primary social goods among different groups, the expectations of the least advantaged group can be raised.

Contrary to the libertarian beliefs outlined in the previous section, Rawls clearly sees justice in the redistribution of resources thus, promoting some degree of government intervention in the market. Thereby the author focused on increasing the level of primary social resources for the least advantaged groups within society. Besides Rawls theory of justice, there are other egalitarian authors that advocate this resource-based view on social justice. A prominent example is Dworkin's idea of resource redistribution to achieve social justice. Dworkin argues that the difference principle is not 'sufficiently fine tuned in a variety of ways' (Dworkin 2000, 113). The author contends that the difference principle wrongly assesses equality of primary social goods on the basis of economic groups rather than assessing individual cases. Therefore, the difference principle insufficiently regards individual handicaps, physical or mental, as they may not be representative of the particular economic group in question. In turn, Dworkin proposes a theory of equality of resources that is based on individual right rather than group position.

As well as Rawls, Dworkin proposes a kind of thought experiment to determine the bundles of resources that should be distributed in order to achieve equality of resources. Resources are distributed equally if no one envies the bundle of resources of anyone else- Dworkin calls this the envy test. However, this test cannot be satisfied by any mechanical distribution: there might be many of such distributions and the choice would be arbitrary.

Instead, the divider needs a market-based auction to determine the appropriate division of resources. In that auction, people can bid on the bundle of their preference. Thereby, people decide what sort of life to pursue against information about the actual costs of their choices for other people. In the end every individual has the bundle of resources he prefers; otherwise he would have bid for another bundle. At this point, resources are equally divided among members of society.

Nevertheless, this initial distribution might not be equal for long. People do have different talents and may demonstrate more or less skills in producing resources that others might envy. Moreover, some persons may stay healthy why others may fall sick; some may experience natural disasters while others may not. After the initial equality of resources bundles change and can be envied by other members of society again. That being so, Dworkin proposes a hypothetical insurance market through which individuals can insure against such misfortune, may those misfortunes be arbitrary or outcomes of personal actions or decisions (Dworkin 2000, 65-119). This hypothetical insurance markets shows which insurances individuals would have bought while not knowing about their individual talents and handicaps. Practically, this hypothetical insurance markets can be translated into a tax scheme to compensate people for their arbitrary handicaps (Dworkin 2000, 99).

Next to the resource based egalitarian approaches to justice, there is another set of authors who propose 'basic capabilities' as the basis of redistribution. Armatya Sen, Elisabeth S. Anderson and Martha C. Nussbaum are famous defenders of this approach. All three authors criticize that resource based approaches ignore the fact that some people can make better use of primary goods than others. They argue that resource based approaches are only concerned with things rather than with what those things do to people (Sen 1980, 218; Anderson 1999, 287-337; Nussbaum 2003, 33-59)[8]. Capabilities to use social goods may vary substantially from person to person, and establishing equality of resources may be far from establishing equality of capabilities. Sen (1980) defines basic capabilities as 'a person being able to do certain basic things', for example the capability to move around, meet his nutritional requirements or to participate in social life. As capabilities vary from person to person, individuals require different amounts of resources to perform those activities. Thus, a theory of justice should aim at equalizing capabilities rather than resources.

[8] See Anderson (1999) for a detailed criticism on what she calls 'luck egalitarianism' that aims at compensating individuals for their misfortune.

Anderson (1999) asks herself the question of exactly which capabilities should be equalized by society. She argues that two sets of capabilities have to be satisfied, which are connected to the negative and positive aims of egalitarianism. According to Anderson, the negative aim of egalitarian justice is to end oppression. Hence, people are entitled to whatever capabilities necessary to avoid or escape from oppressive social relationships. The positive aim of egalitarianism is 'to create a community in which people stand in relations of equality to others' (Anderson 1999, 287-337). Consequently, a citizen needs the capability to function as an equal member of the society. In that way Anderson's approach aims for equality across a wide range of capabilities, including the capability to sustain ones biological existence, access to the education needed to develop one's talents or effective access to the means of production. Next to Anderson, Nussbaum (2003) also proposes a wide range of central human capabilities that should be equalized, including capabilities connected with bodily health but also capabilities to control one's own environment or being able to laugh, to play and to enjoy live (Nussbaum 2003, 33-59). Thus, according to the capability approach, a society, which does not fulfil those basic capabilities or neglects some of them, cannot be called just.

Young (1990) and Fraser (1997) formulated an even broader approach of egalitarian justice. Instead of limiting the concept to the just distribution of a specific 'currency', as basic resources or human capabilities, both authors advocate a multidimensional model of justice. Young (1990) argues that social justice should be expanded to include 'all aspects of institutional rules and relations insofar as they are subject to potential collective action' (Young 1990, 16*)*. Her approach to justice is based on her conceptualization of injustice. According to Young there are two social conditions that define injustice: oppression and domination. She identifies 'five faces of oppression', namely exploitation, marginalization, violence, powerlessness and cultural imperialism. Those five faces of oppression either contribute to, or result from injustice and neither is reducible to distribution. Instead, all those forms of oppression involve social structures and relations (Young 1990, 9). Gerwitz (1998) provides an explanation of the relational dimension of justice:

> The relational dimension refers to the nature of the relationships which structure society. A focus on this second dimension helps us to theorize about issues of power and how we treat each other, both in the sense of micro face-to-face interactions and in the sense of macro social and economic relations which are mediated by institutions such as they state and the market' (Gerwitz 1998, 471).

Opposed to the above-discussed conceptualizations of justice, Young claims that a fair distribution of resources is not enough to achieve social justice. The form of social cooperation by itself is important and her conceptualization of justice concerns the relational system in which distribution of social and economic goods, rights and responsibilities takes place.

Fraser (1997) provides another multidimensional conception of social justice. She argues that an approach to social justice should include distributive justice (socio-economic dimension), justice as recognition (cultural dimension) and justice as representation (political dimension). The second dimension, justice as recognition, refers to social patterns of representation, interpretation and communication (Fraser 1997, 71). An example of an injustice in this dimension would be cultural domination of one group in a society. The third dimension, justice as representation, refers to the political dimension of social justice. Representation concerns the proper inclusion of different groups within a community in terms of decision-making and political participation. Overall, Fraser understands social justice as 'parity of participation' that 'requires social arrangements that permit all (adult) members of society to interact with one another as peers' (Fraser 1996, 31).

2.4.1 Egalitarian Theories and Higher Education

In the following part, selected egalitarian theories are applied to the higher education sector to analyze their implications on access to higher education institutions. The discussion starts by comparing implications of Rawl's and Sen's approaches to justice on access to higher education. Contrasting both approaches gives us an overview on how redistribution of resources could shape access to universities and colleges.

When applying Rawls's theory of justice to the higher education sector, the difference principle is especially significant in evaluating access to universities. To recapitulate, according to the difference principle, only inequalities that benefit the least advantaged group within society are permitted. Otherwise, equality is preferred. Furthermore, the principle requires fair access to the various positions within society, that is, it requires equality of opportunity.

Now, there are several text passages where Rawls explicitly hints at the implications of the difference principle for the education sector. For one, establishing equal opportunities

would require a public school system or subsidizing private schools, as mentioned earlier. However, Rawls explains that even more government intervention would be required to create equal opportunities:

> '(…) in order to treat all persons equally, to provide genuine equality of opportunity, society must give more attention to those with fewer native assets and to those born into the less favourable social positions. The idea is to redress the bias of contingencies in the direction of equality. In pursuit of this principle greater resources might be spent on the education of the less intelligent rather than the more intelligent, at least over a certain time of life, say the earlier years of school' (Rawls 1971, 86)

Rawls sees natural endowed talents and skills as arbitrary, as well as the social class a child is born into. Consequently, he clearly supports some form of government intervention to equalize life prospects and opportunities. As made clear from the statement above, that might involve a redistribution of resources in order to support less intelligent children in school. Nevertheless, Rawls also underlines that the difference principle does not aim at evening out handicaps as all were expected to compete on the same level. The difference principle rather aims at increasing the long term expectations of the least advantaged class. He argues that:

> 'If this end is attained by giving more attention to the better endowed, it is permissible; otherwise not. And in making this decision, the value of education should not be assessed solely in terms of economic efficiency and social welfare. Equally if not more important is the role of education in enabling a person to enjoy the culture of his society and to take part in its affairs, and in this way to provide for each individual a secure sense of his own worth' (Rawls 1971, 87)

According to this statement, Rawls does not suggest to even out natural abilities. Rather he argues that, given varying, arbitrary natural abilities and talents, resources for education should be distributed in ways that support the least advantaged class. In summary, according to Rawls educational inequalities can be just; however, a certain minimum of education is necessary in order to ensure fair equality of opportunity in education for all.

What do these conclusions imply for a 'Rawlsian' view on fair access to higher education? Rawls does not describe specifically what his two principles, and especially relevant in this case, the difference principle, would imply for fair access to higher education institutions. Hence, it is not attempted here to give a full and adequate picture of a 'Rawlsian' access scheme, only the author himself could draw this picture. Instead, the aim here is to

introduce Rawls's theory of justice and imagine its *possible* implications for fair access to higher education.

Looking back at the second part of the difference principle concerning open access to various positions within society, one can argue that this principle has definite consequences for the higher education sector. There are various jobs and positions that are only accessible to persons holding a higher degree, such as, positions within a hospital or within the academic sector. Fulfilling the second part of the difference principle would require equality of opportunity to enrol in universities and colleges in order to attain those required degrees. For one, applying the principle, social class and family income should not be a determinant for university access. Going in line with Rawls suggestions concerning primary education, one could imagine a publicly funded university system or financial support for disadvantaged students in order to fulfil this part of the difference principle. Such a system would also be in accordance with Rawls's requirement that persons of equal talent, ability and willingness to use those gifts should have the same prospects for success.

The first part of the difference principle requires that, given equality of opportunity, inequalities are permissible as long as they benefit the least advantaged class. I order to assess the implications of this principle on fair access to higher education Meyer (2013) proposes a thought experiment in line with the 'veil of ignorance' proposed by Rawls that allows to determine institutional arrangements from an original position, ignorant of the wealth and talent of the individuals within the society. In Meyers short thought experiment, policy makers can choose among three alternatives with regard to access to higher education, which are summarized in the table below:

Table 1. Three alternative models of access to higher education

Option	Funding Type	Role of Talent	Quality of higher education system	Governance
A	Publicly funded, free, equal for all	Regardless of talent	Medium quality	Public only
B	Publicly funded, free, equal for all	Based on talent (all above a certain cut-off)	Medium quality	Public only
C	Mix of B plus private self-funding for those who can afford it	Public money for the talented; private money for those who can afford it	High quality	Public and private

Note. Retrieved from *Fairness in Access to Higher Education in a Global Perspective: Reconciling Excellence, Efficiency and Justice* (p. 30), by Meyer et al., 2013, Rotterdam: Sense Publishers.

Whereas option A would be the most equalizing option, it might be difficult to realize such a system given a scarcity of resources that can be devoted to the higher education sector. Options B and C would allow for more inequalities, by providing easier access for talented students. Moreover, especially option C offers more choice for students as well as for universities and is, in this example, associated with a more qualitative system that generates research and fosters innovation and discovery. Those positive externalities of a high quality education system may then benefit the whole society, including the least advantaged group. Option C therefore would be a sustainable system that would make the least-advantaged group better off and would be consistent with the first part of the difference principle. Conversely, Meyer (2013) argues that it is questionable whether such a system would also satisfy the condition of fair equality of opportunity. Certain high public positions would only be available for talented graduates and less intelligent or talented people would not have the chance to access those positions (Meyer 2013, 31). However, Rawls also states that his conception of social justice does not aim at evening out talent and abilities and rather that those with same talent and willingness should have the same prospects of success, making option C a possible system under a 'Rawlsian' conception of justice.

Nevertheless, the external benefits of higher education are hard to measure and it is unclear which externalities do in fact benefit the lowest social classes. Thus, the application of Rawl's theory of justice here is confined to argue that it would require equality of opportunity in form of a public higher education system or public financial support for students with lower income. Moreover, his theory would allow for certain inequalities in access to higher education sector, given that these inequalities would benefit the least advantaged group within society.

When applying Sen's capability approach to higher education, the starting point would be the well-being of individuals. The author is concerned about the extent to which individuals are able to do what they wish to do and how government can enhance their capabilities to pursue their chosen ends. Personal heterogeneities, environmental diversities, variations in the social climate or relational perspectives are all factors that could influence the student's capability to convert educational opportunities into achievements. For example, a blind student has lower capabilities to achieve educational success than a student that can see (Wilson-Strydom 2015, 151). Thus, policy has to formulate methods to enhance the capabilities of those who currently have limited options (Wilson-Strydom 2015, 151). In order to so, it is important to understand the everyday lives of students and the conditions that constrain or enable them. There are several possibilities to enhance students' capabilities to access higher education. For instance, secondary teachers can promote awareness of university readiness and they could foster the confidence of students to learn. Furthermore, there could be better marketing at universities of what is expected and campuses could create more welcoming learning cultures (Wilson-Strydom 2015, 153). By implementing those measures, students' well being and their capabilities to enter universities could be enhanced.

One can also apply Fraser's three dimensions of justice (distributive justice, justice as recognition, justice as representation) to the higher education sector. To achieve distributive justice, general participation needs to be expanded. That can be achieved by providing broader funding opportunities that specifically target underrepresented groups. However, widening access is also about the way students are respected in the university. For that, justice as recognition has to be improved by welcoming different groups of students on campus and give them opportunities to integrate within the system (Wilson-Strydom 2015, 150). At last, representational justice would concern the manner in which access decisions are made, how students are represented within the university and the wider society and the broader political

decision making process. Thus, to accomplish fair access to education according to Fraser's model, the distributive, cultural and political dimensions of access need to be improved.

So what do egalitarian theories demand with regards to higher education? Although authors demand equality with regard to different attributes, they are concerned with the proportional representation of the different social classes within the higher education sector. Although the expansion of the higher education sector over the past decades lead to increased enrolment from all social classes, proportional underrepresentation of certain groups would still indicate injustices within the system. Those injustices would have to be targeted by the government, granting every child the same chances of enrolment into higher education. According to the particular egalitarian theory implemented, the government would have to target socially disadvantaged classes to equalize opportunities or capabilities. In some cases that would mean to grant every child a right to education, resulting in a profound role of the state within the higher education sector.

2.4.2 Criticism of Egalitarian Thought

The different attributes of equality are frequently criticized in contemporary political theory. However, Rothbard (1974) claims that the general ideal of equality is seldom been questioned. He claims that the ideal of equality is by itself is impossible to achieve in the view of the physical nature of man and the universe. Therefore, humankind should not be enslaved to strive for a goal that is impossible to attain (Rothbard 1974, 6). Furthermore, the egalitarian ideal of the equality of all man would not be desirable. To achieve this ideal, all men would have to be uniform, exactly equal in all of their attributes. That would deprive humans of all their individuality, variety or special creativity. However, humans are not uniform. They have different abilities, talents, or physical features. To make all humans equal would require totalitarian methods of coercion, methods that are profoundly antihuman (Rothbard 1974, 8).

Rothbard (1974) argues that even the attempt to come closer to the egalitarian ideal must be considered as evil. Hayek also elaborates on this thought when criticizing egalitarians mislead strive for social justice. He claims that social justice is an unattainable goal and the 'striving for it will also produce highly undesirable consequences, and in particular leads to the destruction of the indispensable environment in which the traditional moral values alone can flourish, namely personal freedom' (Hayek 1973, 67). He further argues that social justice

is a conception that is imposed upon society and government uses its powers to put some standard of social justice into effect. It assumes responsibilities and additional powers that are not necessary for maintaining order and for providing for certain collective needs:

> ' (...)to ensure the same material position to people who differ greatly in strength, intelligence, skill, knowledge and perseverance as well as in their physical and social environment, government would clearly have to treat them very differently to compensate for those disadvantages and deficiencies it could not directly alter. A claim for equality of material position can be met only by a government with totalitarian powers' (Hayek 1973, 83).

Along these lines, one can also criticize redistribution mechanisms to achieve equality with regard to a specific attribute. For example, according to Hayek achieving total equality of opportunity would require governments to control the whole environment of individuals. The initial opportunities of individuals are affected by the circumstances of their social and physical environment, which are beyond their control. Providing some form of elementary schooling and giving some public support for higher education is far from creating real equality of opportunity. To ensure full equality of opportunity, 'government would have to control the whole physical and human environment of all persons, and have to endeavour to provide at least equivalent chances for each' (Hayek 1973, 85).

When applying this criticism to egalitarian conceptions regarding fair access to higher education, one has to be critical with regard to the attempt to equalize the opportunities of individuals to access higher education. The government would have to control the behaviour and environments of individuals to provide equal chances to higher education, or for example, to grant individuals equal capabilities to access higher education.

3. Comparative Analysis

From the discussion above it follows that there is no definite normative answer regarding fair access to higher education. Both theoretical conceptions are subject to criticism from the opposing side. Moreover, social justice in education is also a specific policy goal. On the one hand, scholars attempt to define the normative dimension of social justice and try to build a theoretical construct that defines the scope of justice. One the other hand however, there is a practical dimension of social justice and the attempt to reduce actual injustices within society. Normative assertions have to be translated into practical strategies, which are relevant and appropriate for a particular context (Singh 2011, 483). Nonetheless, one can use the thoretical guidelines from the discussion of the previous chapter to compare real existing education systems. For that, the higher education systems of the UK, Germany and Portugal are compared to the normative libertarian and egalitarian ideals. For that, the higher education system of the respective country is described and different indicators regarding fair access to higher education are analyzed.

Findings of the EUROSTUDENT project are used to compare the access schemes of the three different countries. The EUROSTUDENT synopsis of indicators is a compendium of key indicators regarding the social dimension of higher education. Specifically, this thesis works with the findings of the 4th round of the EUROSTUDENT project that was conducted between 2008 and 2011. The project aims at supporting the Bologna Process in the European Higher Education area (EHEA)[9] by building a framework to monitor the social and economic conditions of student life in Europe. The focus of the Bologna process is to introduce a three-cycle system (bachelor/master/doctor), strengthen the quality assurance of systems and promote easier recognitions of qualifications within the EHEA. Moreover, it aims to make higher education systems more inclusive. As expressed in the London Communiqué of the Bologna Process in 2007, the authors of the EUROSTUDENT report understand the social dimension of higher education as the process leading to 'the student body entering, participating in and completing higher education at all levels should reflect the diversity of our populations' in the EHEA'. In the scope of the project, various data concerning the social dimension of higher education was collected, including the prospects of graduates in the labor market or students assessment of their studies. As this thesis is concerned with the question of

[9] The EHEA comprises 48 European countries that work together to establish a qualitative European higher education sector that facilitates student mobility and employability. For further information visit the website www.ehea.info

equitable access to higher education, data regarding the socioeconomic background of students, routes into higher education and university funding is analyzed in this section.

The socioeconomic background of students is measured by using a proxy indicator: the highest educational attainment of student's parents. The EUROSUDENT project uses the International Standard Classification for Education (ISCED) classifications to divide student's parents into two educational groups: parents with tertiary education (ISCED 5A, 5B or 6) and parents with non-tertiary education (ISCED 0-4). The authors argue that this indicator is an appropriate proxy for a student's socioeconomic background as it can be assumed that parent's educational experiences and aspirations shape the educational path of their children.

Next, the different transitions routes into higher education shed light on the flexibility of national access schemes. The transition routes into higher education are determined by prospective students and their families, and the national educational system. A country's educational system may influence transition routes prior to university entrance or at the gates of the university, for instance, in form of admission examinations. Especially the secondary educational systems have the tendency to reinforce social, cultural and economic differences between pupils, by channelling students into academic or vocational oriented tracks. Moreover, the existing lifelong learning opportunities and the flexibility of higher education systems influence transition routes into higher education. Generally, students enter higher education institutions via traditional routes, meaning graduation from an upper-secondary school, followed by a university entrance exam. In contrast, countries could provide alternative access routes by acknowledging previous labour market competencies of adult learners or providing part-time or evening courses. By that, older generations and mature students would have the opportunity to access higher education institutions (Orr, Gwosć, and Netz 2011). To capture the flexibility of the higher education system the EUROSTUDENT authors first measure the proportion of students entering higher education trough traditional and alternative routes. Next, the report shows the proportion of students entering higher education through alternative routes according to the types of alternative routes, which are: accreditation of prior learning, aptitude entrance exam or post-secondary non-tertiary routes.

One of the main factors that influence student's decisions to enter higher education is funding opportunities. Next to study related expenditures, students may face a substantial amount of living expenses, which may act as a barrier to higher education if the student does

not have enough funding opportunities. Within the EUROSTUDENT project, student income is classified into four categories, contributions from family or partner, public support, self-earned income and other. The category public support comprises repayable support (loans) and non-repayable support such as grants and scholarships. The category 'other' includes public or private support that is not listed in any of the other categories, for example savings that a student accumulated before (Orr, Gwosć, and Netz 2011). Based on these categories, the authors measure the composition of student's income in various European countries.

In addition to the analysis of the EUROSTUDENT data, the following section gives a general overview of the higher education systems in the UK, Germany and Portugal. For that, the recent history of the systems and the main characteristics of the respective system are described. Moreover, the section analyzes the most important access barriers in the subsequent country to further shed light on the question of fair access to higher education[10].

3.1 Case Study United Kingdom

The higher education sector in the United Kingdom has a long history, with the universities of Oxford and Cambridge dating back to the twelfth and thirteenth century respectively. In line with most of the other European countries, the sector expanded rapidly in the second half of the twentieth century. Participation rates in higher education increased from just 5 % in 1960 to about 14 % by the end of the decade. This phase corresponds to the beginning of the 'binary phase', where about 30 vocational oriented polytechnics were founded, causing participation rates to triple. The 1970s and the 1980s can be best summarized as a phase of non-expansion. Enrolment rates increased rapidly again, when polytechnics gained independence from local authorities and the binary divide was formally abolished. Polytechnics were upgraded to 'new' university status and enrolment rates increased from 15% to 32% in only 6 years (Boliver 2011, 233). In 2013, with participation rate of about 40% the UK came close to universal enrolment into higher education (Boliver 2013, 345).

[10] It has to be mentioned that the EUROSTUDENT project is possibly subject to n research bias, such as response bias bias .Nevertheless, t the coordinators of the project tried to limit those biases by implementing strict conventions for the collection and reporting of data. (see http://www.eurostudent.eu/about/docs/index_html)

Britain's higher education sector has a hybrid nature, consisting of mainly private providers with a significant amount of public funding. However, public funding decreased over the past years and varies considerably between the institutions (McCowan 2015, 10). Tuition fees for the partly publicly funded institutions were introduced in 1998 for the first time and increased steadily to its current level of 9000 pounds[11]. With that, the UK has the highest level of tuition fees among the countries analyzed in this thesis. However, the government established income contingent loans that are available for students regardless of the financial status of their families. Students can apply for loans up to 9000 pounds in order to cover their tuition fees and additionally can apply for maintenance loans to help to cover their living expenses such as accommodation, food and transportation. Thereby, a student only starts repaying his loans after leaving university and when earning an annual income that exceeds 21000 pounds. If the annual income exceeds 21000 pounds, the borrower has to repay 9% of his annual income. After 30 years, any outstanding balance is written off (Department for Education and Department for Business, Innovation & Skills 2015). Additionally, students have the possibility to apply for bursaries and scholarships that are offered by various universities and colleges. Given those diverse options for financial support, 42% of a student's monthly income in the United Kingdom is made up by repayable and non-repayable public support, whereby loans are the most important component. Only 11% of a student's monthly income comes from families or partners (Orr, Gwosć, and Netz 2011).

The EUROSTUDENT data shows that the British access scheme is quite flexible and allows students from all socioeconomic backgrounds to enter higher education. 24% of the students choose alternative routes into higher education (Appendix A). Specifically, UK higher education institutions acknowledge past achievements in the labour market and recognize post-secondary non-tertiary experiences (Appendix B). Furthermore, in England and Wales, 49 % of the students enrolled in universities have parents with a non-tertiary background (Appendix C). Even though that number indicates that students from low-socioeconomic backgrounds have the opportunity to access higher education, this number does not indicate the relative representation of the different social classes in higher education sector. For that, the share of student's parents with a non-tertiary background has to be compared to the share of parents with the same educational background in the total population. If for instance, the share of student's parents without tertiary education was 10%

[11] 9000 pounds amounts to approximately 11000 Euros, as calculated with the current exchange rates of August 2016.

and the respective share of all parents with this educational background in the total population was 10% as well, perfect participatory equality would be achieved with an odds ratio of 1. However, in the case of the UK, the share of student's parents with a non-tertiary background is 49% whereas their corresponding share in the total population is 67%, yielding an odds ratio of 0.7. In contrast, the ratio of student's parents with tertiary education to counterparts in the total population is 1.5 (Orr, Gwosć, and Netz 2011). Thus, children from high educational backgrounds are roughly twice as likely to enter higher education as children from low educational backgrounds. The system gives children from all socioeconomic classes the opportunity to enter higher education; however, students from upper classes are relatively overrepresented. Moreover, although participation rates in higher education have increased in the past decades, the proportion of socially disadvantaged groups has remained constant (Asplund, Adbelkarim, and Skalli 2008).

In addition to the relative overrepresentation of upper class students in general, qualitative inequalities between students persisted during the two phases of educational expansion in the UK. Qualitative inequalities refer to the overrepresentation of white upper-middle class students in specific degree programs and in old, traditional Russell Group universities[12]. Applicants from lower class origins, state schools and from certain ethnic minorities are less likely to be admitted at Russell Group universities. For example, 35% of Russell Group entrants have a high occupational background, whereas only 13% of the students have a manual occupational background. Next, more than half of private school graduates enter those universities compared to only a fifth of state school graduates. Moreover, nearly a quarter of the student body at Russell Group universities is white and the representation of other ethnic groups is much smaller (Boliver 2013, 344-364). Boliver (2013) argues that there are social and ethnic disparities in both, the rate of applications to these universities and the rate of admission to these universities. Hence, even though the expansion of the higher education system created more study places for everyone, the educational system is highly stratified. Students from specific social or ethnic groups are more likely to graduate from prestigious universities and ultimately secure better positions in the labour market (Boliver 2013).

[12] The Russell Group was founded in 1994 and represents 24 of the most prestigious universities within the UK. For a complete list see russellgroup.ac.uk

3.2 Case Study Germany

Similar to the UK, the higher education sector in Germany expanded significantly since the 1990's and the country has reached the state of mass higher education. Yet, compared to other European countries participation is low. Only 21% among the 30- to 35-year old that qualify for higher education hold a university degree (Powell and Solga 2011, 51).

The sector in Germany is comprised of liberal arts universities and universities of applied science (Fachhochschulen), which offer direct labour market entrance for graduates. Moreover, students have the opportunity to attend universities of dual studies, which combine higher educational studies with simultaneous in-firm training. Almost all universities in the country are public and most states do not charge tuition fees. In addition, students can receive public financial assistance if their parents are unable to provide them with sufficient resources to cover their living costs. Half of that financial assistance is received as a grant whereas other half is received as a loan (Asplund, Adbelkarim, and Skalli 2008). Nevertheless, in comparison to other European countries, Germany has a relatively low enrolment rate of each cohort attaining the qualification to enter higher education and has one of the lowest growth rates in Europe. Moreover, students with a low-socioeconomic background are underrepresented in higher education.

According to the findings of the EURSOTUDENT project 2008-2011, Germany's higher education system can be classified as a socially exclusive system (Orr, Gwosć, and Netz 2011). Only 31 % of students enrolled in higher education institutions have parents without tertiary education (Appendix C). Simultaneously, there is a relative high overrepresentation of students with a tertiary education background. The ratio of student's parents with tertiary education to the counterpart in the total population is 2.6 whereas the ratio for students with non-tertiary background is 0.4. Hence, students from higher educational backgrounds are about 6 times more likely to enrol in higher education than students from lower educational backgrounds (Orr, Gwosć, and Netz 2011).

One entry barrier for higher education in Germany is college related costs, lack of funding opportunities and a general loan aversion of high school graduates. Most states in Germany do not charge tuition fees or only charge a moderate amount of 1000 Euros per year; however, higher education imposes significant other costs on students. For one, there are living costs that vary across different cities in Germany. Another college related cost is

forgone income that the student could avoid by entering the job market instead of continuing education. To address those cost related entrance barriers, the government provides financial support to cover living expenses for student from low-socioeconomic backgrounds and there is also the possibility to receive a government- backed loan of a maximum of 7000 Euros. In addition, the student can apply for several merit based aid programs. Yet, government funding is not enough to cover all expenses; especially in states were moderate tuition fees were introduced in 2006. Kroth (2013) finds that 77 % of high school graduates that hold the qualification to enter higher education mention costs as the main problem. Not surprisingly, students from low- socioeconomic backgrounds seem to be most affected by college related costs.

As opposed to other European students, students in Germany rather turn to the labour market than financing their studies through loans. Only 5 to 6 % of students use private loans. A key problem with loans in Germany is their low acceptance. Low-socioeconomic students seem to be particularly aversive: despite facing higher financial unmet need they are not more likely to take out a loan (Kroth 2013, 161). Most of those students reject loans, as they do not want to be confronted with the financial burden after graduation or they are not sure whether they can repay them at all. Those concerns are stronger among students from low-socioeconomic backgrounds (Kroth 2013, 162). Kroth (2013) suggests that they deviate from rationality and are particularly adverse to loans even though loans would allow them to increase their income in the long run (Kroth 2013, 165). They experience displeasure in spending money they have not earned yet. Non- tertiary vocational training is a less costly and less risky alternative to higher education, especially for children from low-socioeconomic backgrounds (Powell and Solga 2011, 60). Taken together, college related costs are a significant entry barrier for students from poorer families and private loans are not an effective strategy to widen access to higher education in Germany.

Germany's segregated secondary education system is another major entrance barrier to tertiary education. After grade 4, children are divided into one of five school types: lower secondary schools (Hauptschulen), intermediate- secondary schools (Realschulen) or upper-secondary schools (Gymnasien), multi-track comprehensive schools (Gesamtschulen) or multi-track cooperative schools (Schulen mit mehreren Bildungsgängen). Those schools offer a range of certificates and only upper-secondary schools offer a certificate to enter tertiary education. There is permeability between the different tracks; however, ultimately young people are channelled into specific positions in the labour market trough the ranking early in

the education process (Powell and Solga 2011, 55). Thus, in comparison with other European countries, the proportion of graduates of an age cohort qualified for higher education is relatively low. Expanding the higher education sector in Germany would require a reform on the entire educational system, as its different pathways creates entry barriers and shapes students behaviour and educational investment.

3.4 Case Study Portugal

The period of mass expansion in the higher education sector in Portugal was triggered by the end of the democratic revolution in 1974. Whereas higher education institutions where previously limited to an elite body of students approved by the authoritarian regime, the system now opened up to students from various social backgrounds and increased rapidly. Moreover, the country experienced a second phase of rapid expansion over the last two decades. In 2001, attainment of tertiary education was among the lowest in OECD countries. In 2010 participation rates in tertiary education were among the highest in OECD countries and 89 % of young people in Portugal are expected to enrol in university-level education (OECD 2012, 19).

Nevertheless, the rapid expansion of the higher education system since the 1970s imposed high financial pressure on the previously fully publicly funded sector. For that, there was a massive expansion of the private higher education sector that only demanded minimal financial support by the Portuguese government. Especially in the aftermath of the democratic revolution, the demand for vacancies at private institutions was high: much of the staff in public institutions was expelled due to their loyalty to the previous autocratic government, and private institutions offered peaceful opportunities for students to pursue their academic interests (Amaral and Teixeira 2000, 250). The private sector developed continuously under the protection of policy marks, yet, the popularity of the sector decreased over the past 10 years mainly due to low perceived educational quality at those institutions[13].

Today, Portugal has a binary education system that is publicly and privately funded. Upper secondary graduates can enrol in either liberal arts universities or universities of applied science, called polytechnics. The Portuguese state has a profound role in financing

[13] There are many other factor related to the decline of the private higher education sector in Portugal, however, a discussion of all factors is beyond the scope of this thesis. For an in depth studies about the decline of the sector please see (Teixeira 2015).

and regulating higher education institutions in both sectors. Regarding the funding of institutions, the Portuguese government is using a funding formula that allocates budgets to the different institutions, mainly in the public sector. However, the government also supports institutions through research grants and different social support services, such as the provision of meals and accommodation for students. Besides government funding, universities can raise tuitions fees up to a state-determined level. Those fees can vary across institutions and study programs but are generally lower for polytechnics than for universities (Portela et al. 2008, 187). Next to its involvement in the funding of different higher education institutions, the government regulates access by determining access criteria. The Ministry of Science, Technology and Higher Education (MCTS, Ministério da Ciência, Tecnologia e Ensino Superior) sets a numerous clausus that defines the maximum number of students allowed for each public and private program. By that, the government can affect the size and the composition of the higher education sector and changes in access condition affects the number of candidates eligible for higher education programs. In addition, the government has especially tight regulations for the creation and development of programs offered by private institutions. Private institutions are not allowed to create, extend or cancel study programs autonomously and instead need the approval of the MCTS for such developments (Amaral and Teixeira 2000, 263)

Besides funding universities, the Portuguese government provides possibilities for students to fund their education. In 2007 the Portuguese government issued new legislation to foster flexibility of access to higher education and introduced two financial instruments to support student enrolment. First, the government extended the social support system for low-income students by increasing the number of grants from 63000 in 2007 to 75000 in 2010, covering more than 20% of the student population. Second, complementary to those government grants, a mortgage based loan scheme was introduced that targets students from all social classes (Heitor, Horta, and Leocádio 2016) . Yet, there still remains the general assumption in Portugal that the family should be responsible for the sustenance of students. EUROSTUDENTS findings show, that 49% of the aggregated students monthly income comes from the family or partner. 39% of the monthly income is based on student's gainful employment and only 8% is provided by the public (Appendix D).

In accordance with the increased number of available spaces at higher education institutions over the past years, participation of students from low-socioeconomic

backgrounds increased. Among the students enrolled in higher education institutions, 76.2 % have parents that do not have a tertiary education background (Appendix C); a share that is larger share than the ones in Germany or the UK (Orr, Gwosć, and Netz 2011). Even though the EURSOSTUDENT report does not provide any measure of relative social representation, OECD data from 2009 suggests that there might still be a relative overrepresentation of upper-class students in Portuguese higher education. The probability of attending higher education for students with a high educational background is three times higher than the proportion of highly educated families in the population (OECD 2012). The results suggest that Portugal is successful in encouraging students from low-socioeconomic backgrounds to enter higher education and possibilities for upward social mobility.

3.5 Case Study Evaluation

The countries discussed above have very distinct access schemes that score very differently with the regards to the two opposing conceptions of fair access to higher education. To start with, the United Kingdom expanded its system immensely over the past decades, allowing more people from all social classes to access higher education. The system scores well with regard to a libertarian conception of justice. The system is mainly market based with a mix of private and public institutions that compete with each other. There is some government funding available, however, a large part of the financial burden of higher education was shifted to private households. Nonetheless, students from all social backgrounds have the opportunity to access education by using income-contingent loans to finance their education. Moreover, the system offers flexible entrance criteria that are not solely determined by the government and are established by the different institutions. Furthermore, mature students with various educational backgrounds have the possibility to enrol in higher education programs.

Yet, with regard to egalitarian conceptions of justice, the fairness of the British system is questionable. Market mechanisms and the competition among universities allows for a diversity of institutions that have different quality standards and prestige. Therefore, the UK system is argued to be stratified, allowing some students to receive a better degree than others. This might represent an injustice for many egalitarian theorists. For example, Rawls difference principle requires that positions and offices within society are open for all. Yet, graduates that attain a degree from a prestigious university may be able to secure job positions

that are unattainable for graduates from other institutions: Hence, a stratified higher education system may not fulfil the requirements of Rawls difference principle. Moreover, the resulting inequalities in lifetime income and living standard of those graduates would only be just if they would benefit the least advantaged class. For that, one would have to carefully analyze the associated externalities of a stratified higher education system in order to assess if access to institutions is just.

Regarding Fraser's conception of social justice or the capability approach, the UK government may have to introduce programs that specifically attract students from lower socioeconomic backgrounds. Students from those backgrounds are still underrepresented in universities and might require further support to access higher education.

Opposed to the British system, the German higher education sector does not score high on any of the two conceptions of fairness. Under a libertarian conception of fair access, the system scores poorly with regard to the free market and individual choice. Institutions are mainly publicly funded, redistributing income from the general taxpayer to students. The institutions are more or less of uniform quality and are not competing with each other to attract the best students. The students have only limited possibilities to finance their housing and general living standards as the government is the only provider of a means- tested loan scheme. Moreover, compared to the other countries discussed in this thesis, the higher education sector expanded only moderately, hosting generally a smaller student body than the other systems discussed. Likewise, the system scores poorly with regard to an egalitarian conception of justice. The system seems to be still exclusive, with only a small proportion of socially disadvantaged children entering higher education. The secondary system is highly stratifying at an early age, preventing children with talent and capability to enter higher education.

The Portuguese system on the other hand, demonstrates aspects from both conceptions of social justice. Concerning the libertarian conception of fair access, the system consist of a variety of institutions that are public, private, vocational oriented and academically oriented- a system that allows for competition between the different institutions and expanded significantly over the past decades. Thus, the Portuguese system entails market mechanisms that are highly regarded by libertarians. Furthermore, the public funding decreased over the last years and the country introduced a loan system to offer children from all socioeconomic the possibility to enter higher education, dividing the financial burden of higher education

between taxpayers and individual students. Admission criteria to programs are designed by institutions, however, a lot of them still rely on a numerous clausus system determined by the government. Moreover, the government assumes an extensive administrative role within the system that limits the benefits of competition from a libertarian point of view.

In terms of egalitarian conceptions of justice, the system was successful in targeting people from lower socioeconomic classes over the past years. However, the market mechanism may allow universities to achieve greater dissimilarities over the next years, which would allow some students to receive a better degree than others.

In summary, evaluating the access to higher education in the three different countries yields mixed results. All countries demonstrate libertarian as well as egalitarian principles of justice regarding access to higher education institutions. Yet, none of the systems introduced in this thesis resembles a particular conception of justice. However, all three countries extended their higher education sector over the past years, opening the sector for a larger amount of students from different socioeconomic backgrounds and introduced individual measurements to cope with the financial pressures of mass higher education systems.

4. Conclusion

The expansion of higher education sectors around the world from elite systems to today`s systems of mass- and universal enrolment, resulted in the ongoing discussion about fair access to higher education. Access to ancient and medieval universities was traditionally limited to a small group of upper class students to be prepared for their rightful positions of leadership within the society. The limited access to universities was not questioned and rather seen as a tool to reinforce existing social divisions. The elitism within the higher education sector was only challenged in the course of the industrialization after World War II. In order to meet the demand for trained professionals, universities had to open up for a larger body of students from more diverse social backgrounds. Higher education became increasingly associated with economic growth, upward social mobility and increased living standards. Being that so, the state assumed the role of funding and regulating the higher education sector to ensure accessibility for various social classes to higher education institutions. Yet, as nowadays systems experience enrolment rates that approach 50% in a given age cohort, the sustainability and fairness of publicly funded systems is increasingly put into question. On the one hand, it is claimed that the public funding of such large higher education system is not feasible. On the other hand, shifting the costs of higher education to individual students and their families is claimed to prevent individuals from low-socioeconomic classes from entering higher education. Those conflicting demands, as well as social, economic and political pressures have led governments to implement very different access schemes. The aim of this thesis has been to evaluate some of the existing access systems and ultimately to determine what constitutes fair access to higher education today.

To demonstrate the complexity of the problem at hand, the analysis of the first chapter started by adopting common sense reasoning to answer the question of fair access to higher education. When adopting this type reasoning, particular access schemes can easily be deemed as unjust. Excluding prospective students based on gender, social origin or ethnicity is said to be unjust, as is giving preferential treatment to particular students. Nevertheless, the section demonstrated that universities seem to have legitimate reasons to exclude particular students from accessing higher education or to offer some students preferential treatment in the admission process. The discussion about fair access to higher education is subject to a plurality of conflicting principles and common sense reasoning does not yield an answer concerning this matter.

Nonetheless, the common sense approach demonstrated that conceptions on what is socially just and what is not, seem to play an important role in developing and evaluating higher education systems. Particular conceptions of social justice can be found in contemporary political theory and can be useful guidelines for developing and evaluating higher education systems. In formal theories of social justice, authors discuss principles of giving people what is due to them. Thereby, they determine the role of the state in giving people what is due to them and in assigning duties and rights to citizens within the society. Thus, theories of social justice are directly connected with the question of fair access to higher education. By determining the rights of citizens, theories of social justice also offer insights on individual rights concerning higher education. Hence, theories of social justice can shed light on the governments' duty to provide funding for universities and determining access criteria for institutions.

In the next part of the chapter, two competing conceptions of social justice were presented: Libertarianism and Egalitarianism. The analysis of libertarianism highlighted two aspects of libertarian thought significant for evaluating fair access to higher education. First, libertarians advocate limited government, which should be responsible for protecting citizens from force and violence and for protecting individual's property rights. Second, libertarians emphasize the importance of the spontaneous market order, where individuals can pursue their own ends by acquiring and trading property. According to the libertarian line of thought, the role of the state in the market should be limited to providing rules that guide individual behavior .

Likewise, the state should only assume a limited role regarding the provision of higher education. Even though the external benefits of higher education justify some government funding of universities and students, most of the financial burden should be borne by students and other private investors. A potential libertarian access system would therefore rely on tuition fees, private philanthropy and income contingent loan schemes, open for students from all socioeconomic classes. Similarly, with regard to access criteria, libertarian thought would promote a system that relies on the mechanisms of supply and demand that allows students with varying abilities and talents to enter the higher education sector.

Opposed to libertarians, egalitarians promote a more extensive role of the state within the higher education sector. The level of government intervention promoted by different egalitarian theorists might be different; however, they all involve some kind of redistribution

of resources. Therefore resources might be redistributed to achieve equal opportunities, resources or capabilities. Depending on the specific conception of justice that is advocated, egalitarian theories have various implications on educational systems. For example, a Rawlsian access scheme would require fair equality of opportunity for all students to access higher education but would allow for educational inequalities, so long as they benefit the least advantaged group within society. More radical conceptions of a just distribution as is the case with Fraser and Young, require more drastic interventions in the market for higher education. Fair access would not only require an equal proportion of all groups entering educational institutions but also demand the appropriate integration of all social groups within the university.

In the following chapter the access to the higher education sector has been analyzed in three European countries so as to better understand the real implications of the role of the state in regard to education. When evaluating the three different case studies, none of the countries can be determined to be the 'most just' system. For one, fairness in access to higher education cannot be evaluated objectively. When evaluating funding, access criteria, the composition of student bodies or routes to higher education, one always evaluates such issues according to an underlying conception of social justice. Even though one is not able to determine objectively what constitutes fair access to higher education, one can determine just principles in higher education according to the theoretical conceptions presented in this thesis.

Whereas with a libertarian conception of justice in mind, the United Kingdom has created the most equitable access scheme, with an egalitarian conception in mind, the system shows many inequalities. The stratified university sector of the United Kingdom and the associated inequalities are problematic for the egalitarian, however, the libertarian embraces the competition and quality of such a system. Likewise, an evaluation of the Portuguese higher education sector yields mixed results with regard to the two different conceptions of justice.

Yet, there is one clear result concerning the evaluation of one higher education system: the German higher education system does not ensure fair access to higher education with regard to both conceptions of social justice. Apparent egalitarian principles such as an almost solely publicly funded system or the provision social grants cannot guarantee fair access to higher education.

Furthermore, this analysis demonstrated that in the German case, access to higher education might not be solely dependent on the role of the state in funding and regulating these

institutions. Rather, the problem seems to be already at the levels of primary and secondary education that establish entry barriers early in the system.

All in all, fairness in access to higher education is not a 'black-and-white' picture. When attempting to establish fair access to universities, policy makers must not only gauge the implications of underlying conceptions for the higher education sector, but must also gauge their implications for the whole educational sector.

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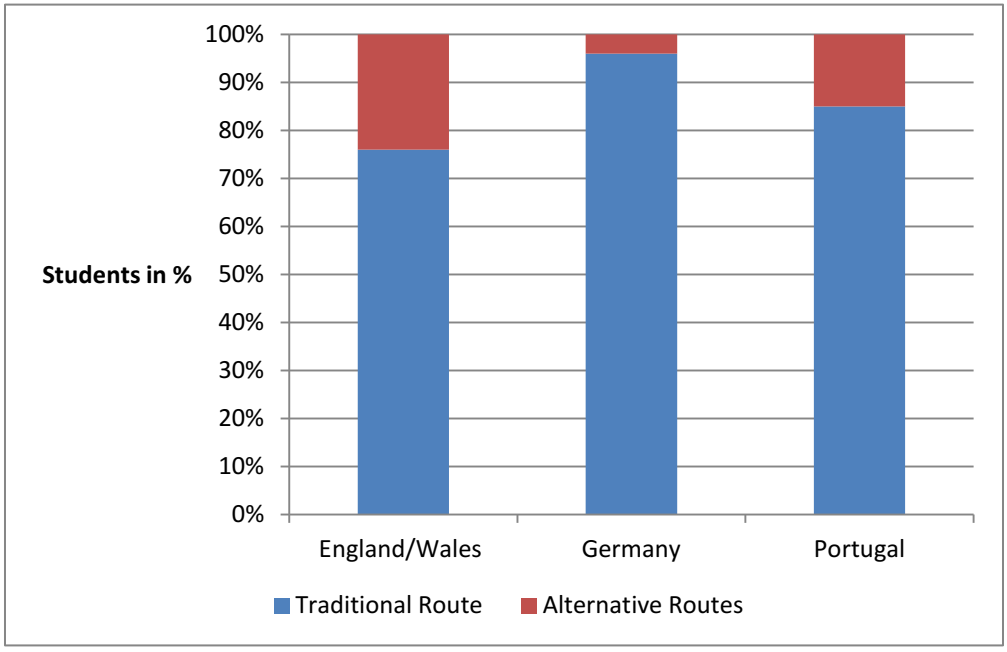
Appendix A:

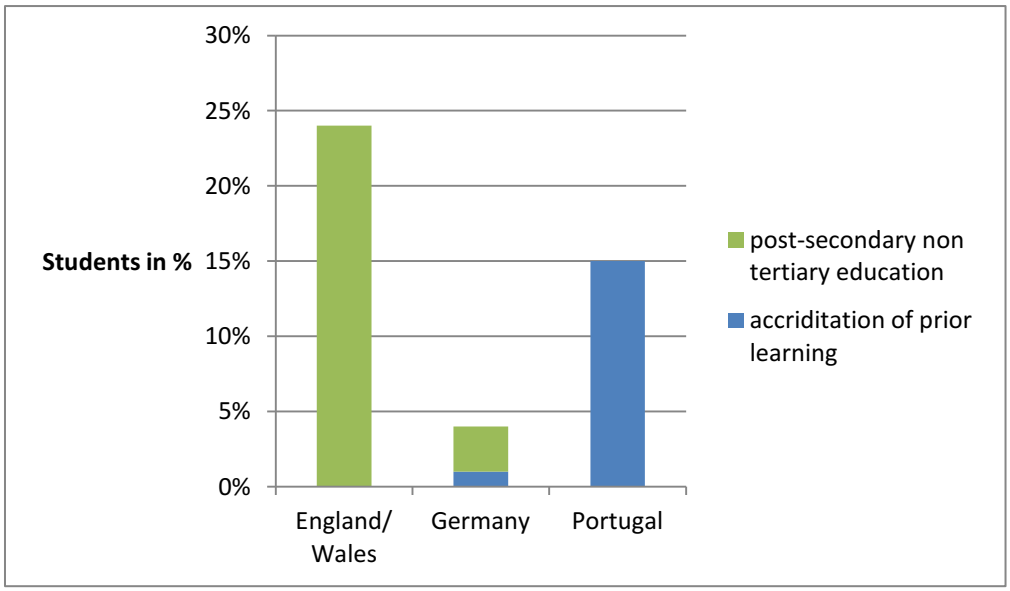
Students entering higher education through a regular route (upper secondary qualification) and through alternative routes



Note. Retrieved from *The Social and Economic Conditions of Student Life in Europe 2011: Synopsis of Indicators* (p. 31), by EUROSTUDENT, 2011, Bielefeld: Bertelsmann Verlag

Appendix B:

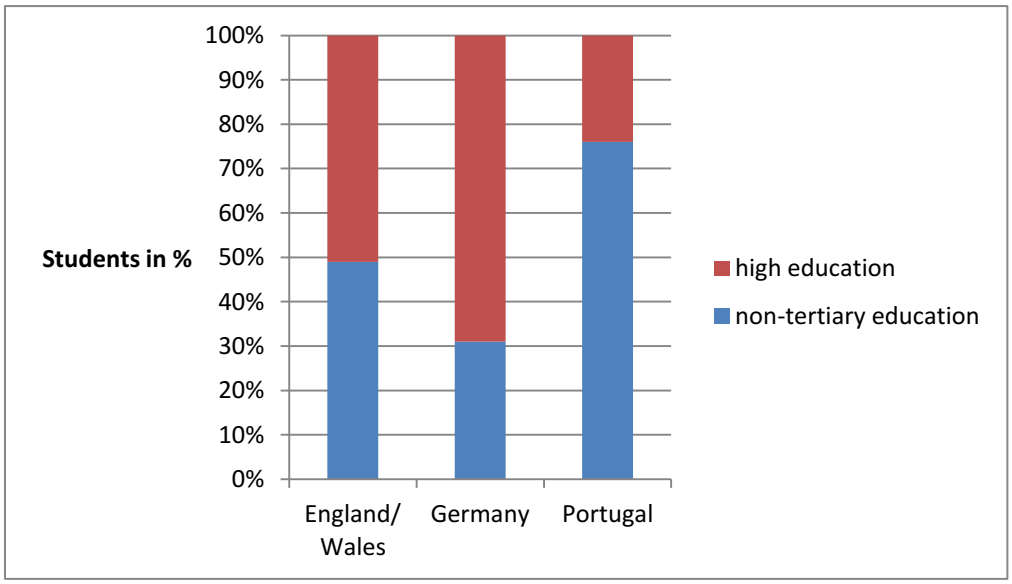
Students entering higher education through alternatives routes by type of routes



Note. Retrieved from *The Social and Economic Conditions of Student Life in Europe 2011: Synopsis of Indicators* (p. 32), by EUROSTUDENT, 2011, Bielefeld: Bertelsmann Verlag

Appendix C:

Socioeconomic background of students- Highest educational attainment of student's parents



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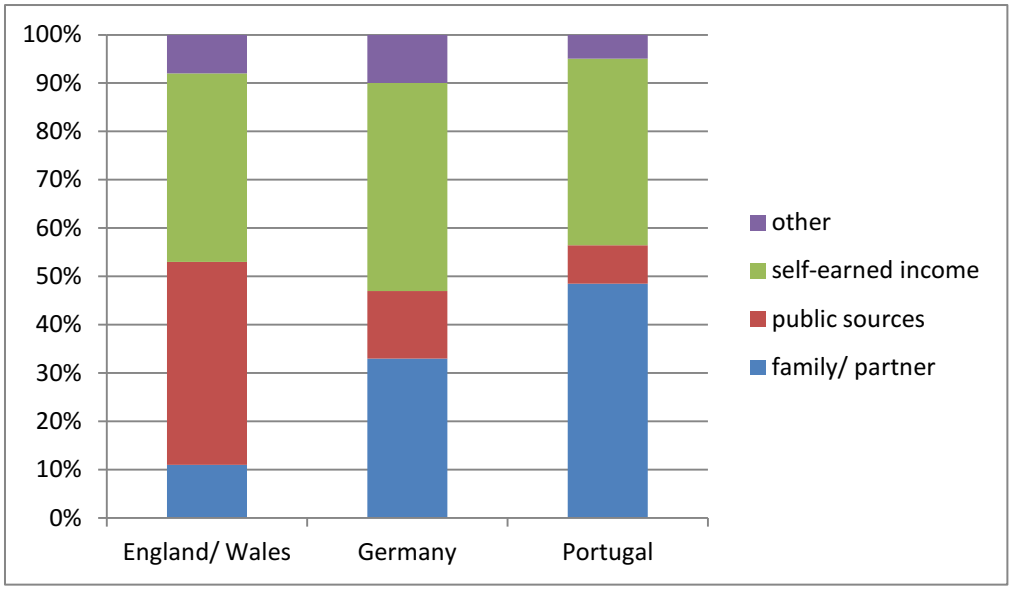
Appendix D:

Composition of total monthly income of a student in %



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