

## 6 The question of international tuition fees: Cash cows & silent elephants

Perhaps the most glaring contradiction in UK universities today concerning equality and justice for international students centers on the question of tuition fees. On the one hand, universities regularly state their unequivocal commitment to promoting equality for all students. The *Equality and Diversity Statement* at Brunel University is typical:

Brunel University London values inclusiveness and confirms its continuing commitment to the principles of equality and diversity in employment, admissions, and in its teaching, learning and research activities. (Brunel University 2010)

There are no exceptions mentioned, whether for international students or anyone else, in these equality statements. Many academic and professional staff, too, are adamant that their universities treat all students equally, no matter who they are or where they come from. As one director of international student admissions, quoted in the introduction to this book, declared about her own university: "I can't think of any instances where we wouldn't want to be equal and fair and open to international students." Yet, at the same time, the silent elephant in the room here is that virtually all UK universities charge international students who come from outside of the European Union tuition fees that are far in excess of those charged to home and EU students. During the 2016-2017 academic year, international undergraduate students in the UK were charged tuition fees that were on average between 50% and 172% higher than fees charged to home students, and international postgraduate students on taught courses were charged average tuition fees between 107% and 223% higher than home students (fee level variations depend on whether courses are classroom, laboratory or clinically based: see Table 6.1) (*THE* 2016). It is this kind of fee differentiation that periodically leads to charges by international students and others that universities in the UK treat these students as "cash cows," and are more interested in making a profit out of these students, than promoting higher education internationalism or safeguarding international student wellbeing (e.g., Espinoza 2015; Forkert 2011).

Tuition fees are, in fact, one of the most important sites for considering questions of equality and justice across borders in higher education, not just because of their obvious importance for universities as well as students, their families and communities, but also because of the broader ideological and political dilemmas and contradictions they raise and highlight. In fact, by looking closely at the past history and contemporary debates around international tuition fees in the UK, we can gain a more situated and complex understanding of both national and global models of educational equality and justice, as well as the ever changing relationships between them. We can see how global models of equality are in some ways more foundational than national models, and how states and institutions have to work to limit equality ideals to applying within national borders only. We can see how claims of national justice and global equality can each be invoked in problematic ways that actually undermine justice and equality, and support agendas of educational marketization. We can see how understandings of and commitments to ideals of equality can be eroded

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over time, in the context of the marketization of higher education; and finally, we can see, too, how the very borders of the nation state, when used for determining who should be granted equality rights and who should not, can be considerably more ambiguous and complex than may at first appear.

### **Universalist principles in a nationalist world**

In the literature on global justice, there is often an assumption that principles of equality and justice were developed as national principles applying to national populations, and that it is only as the world becomes ever more globalized that there is a growing need to make a concerted effort to extend these principles outward to apply internationally and globally. As David Miller (2009, p.23), for example, writes in *Social Justice in the Global Age*:

The idea of global justice is comparatively new: it was rarely used before the last decades of the twentieth century. The idea of social justice, by contrast, has been with us for a century or more... Social justice was a central idea in twentieth-century politics... It was the banner under which the battle for equal rights, equality of opportunity, the welfare state and other such goals was fought within each separate [nation] state.

A parallel implication is that global justice can only be developed if there is sufficient will power and political effort to make it a reality. However, while there is considerable truth in this framing, it also risks misrepresenting the historical and substantive relationships that have existed between national and global understandings of social justice.

For the most part, principles of equality and justice do not start off as nationalist principles, but universalist ones. In countries such as the UK, many of us grow up learning to believe in equal opportunity and justice for all, not just for some. Laws and policies based on these principles also tend towards having a universal or global reach. Rather than having to make a concerted effort to develop a framework of global justice, in many ways, the reverse is often true. In the context of a globalizing world, in which the global mobility and connectivity of populations has dramatically increased, states, institutions and individuals have often made concerted efforts to prevent their own universalist principles of equality and justice from applying globally, and work towards limiting these to national citizens and legal residents only, while also making it difficult for global outsiders to become citizens or residents (Spencer & Pobjoy 2011; Spencer 2014). In the context of international students, this at least is the direction and process through which policy and practice on tuition fees has developed historically in the United Kingdom.

In the UK, university tuition fees started out by being the same for home and international students; and they continued this way until the late 1960s, when differential fees for international students were introduced for the first time in 1967 by the Labour government's Secretary of Education Anthony Crosland. Subsequently, the level of the differential fees for international students was increased multiple times during the 1970s; and in 1980, Margaret Thatcher's Conservative government introduced the principle that all international students "will be expected in future to meet the full cost of their tuition" and

could receive no public subsidy for their education in the UK (HM Treasury 1980). Prior to this series of changes, equal tuition fees for home and international students were not just a matter of practice: such equality was both required by law and deemed just by moral principle. The *Race Relations Act* of 1965 outlawed discrimination on the “grounds of colour, race, or ethnic or national origins”; and university academics and administrators alike broadly saw the charging of equal fees to all students as being an issue of educational and social justice that was foundational to the entire academic enterprise (Williams 1984). Oxford University, for example, which was one of several UK universities to oppose the initial introduction of a differential fee for international students in 1967, did so in part because Oxford academics argued that “discrimination in education is not only, in the long run, inexpedient, but also wrong in principle” (*Minerva* 1967, p.148). Practice, principle and law on the question of university tuition fees in the UK, in other words, used to be universal not national in scope.

In order to legally be able to charge international students differential tuition fees, the UK government was forced to introduce explicit amendments and exclusions to its own equality laws so as to prevent these from applying universally. The *Race Relations Act* of 1976 contains Section 41 that directly gives the UK state the right to discriminate against non-UK nationals and residents, in certain circumstances:

Nothing ... shall render unlawful any act whereby a person discriminates against another on the basis of that other's nationality or place of ordinary residence or the length of time for which he has been present or resident in or outside the United Kingdom ... if that act is done –

- (a) in pursuance of any arrangements made ... by or with the approval of ... a Minister of the Crown; or
- (b) in order to comply with any condition imposed ... by a Minister of the Crown.

Likewise, the *Equality Act*, which replaced the *Race Relations Act* in 2010, contains a similar broad set of exemptions to equality law in the UK in its Schedule 23:

Schedule 23 allows direct discrimination on grounds of nationality in relation to provision of services and public functions, employment and education and indirect discrimination on the basis of residency requirements (place of ‘ordinary residence’ and length of residence) where that discrimination is required by law, Ministerial arrangements or Ministerial conditions. (Spencer & Pobjoy 2011, p.11)

Each time that the government has introduced differential tuition fees, it has also issued direct legislation, ministerial orders and/or departmental circulars that grant permission to universities to discriminate in the fees they charge to different categories of students: for example, the controversial Department of Education and Science's Circular 8/77 that one opposition MP in the late 1970s labelled as “racist,” “morally and legally offensive,” and “notorious and largely incomprehensible” (Hansard 1978); or the *Education (Fees and Awards) Act* of 1983, that explicitly enabled the Secretary of State to “make regulations requiring or authorising the charging of [university] fees which are higher in the case of students not having such connection [of residency or citizenship] with the United Kingdom ... than in the case of students having such a connection.”

It is only because of this exception-granting legislation that differential tuition fees are even legal in the UK. To illustrate: while it is legal for Cambridge University to charge different fees to home and international students in order to take a module run by one of its professors, it would be illegal – and generally considered discriminatory and unethical – for a public theatre venue such as the Southbank Centre in London to charge different ticket prices to citizens, residents and foreigners for a public talk given by the exact same professor speaking on the exact same topic as in her Cambridge University module. As William Evans (2011) observes more generally of the UK, “be they tourists, students, workers or asylum seekers, we don’t charge foreign visitors extra to use public transport, listen to or watch the BBC, use the water supply or enjoy the slide in the local park.” The reason is that equality law in the UK, as in other countries, tends toward having a universalist scope of application unless the state has taken explicit steps to prevent this from occurring.

If legislation and moral principle in the UK as applied to university tuition fees have moved from having a broad universalist scope up until the late 1960s, toward a deliberately narrowed nationalist scope ever since, this does not mean that nationalist frames of justice were not relevant prior to the 1960s. For one of the key triggers for introducing differential tuition fees for international students during the 1960s and then subsequently removing all public subsidies for the cost of international students’ university education at the beginning of the 1980s was that the numbers of international students coming to the UK during this period were starting to increase dramatically. In the 20 year period from 1956 to 1976, the number of full time overseas students attending UK universities more than tripled (Perraton 2014, p. 84). As Peter Williams (1981, p.3) notes, while the “principle of free movement” across the full global reach of the British empire had long been supported “ideologically, if not always in practice” in the United Kingdom, “reasons of expense [of travel] and difficulties of communication” meant that “comparatively few exercised this right” until the “advent of cheap mass transport and the rather rapid development of many colonial territories in the 1940s and 1950s.” In other words, it was in the context of a globalizing world economy, in which populations were increasingly able to travel and migrate at a global scale, that the previously universalist laws and principles of social justice that had been held at the level of the nation state actually began to apply universally, as opposed to the largely nationalist scope that they had previously had in practice.

### **National justice or international exploitation?**

The most common explanation that tends to be offered for why international students should be required to pay higher university tuition fees than home students is based on the principle of non-subsidization. As Mark Blaug (1981, p.41) puts it, this is the “contributory principle of government expenditure which states Thou shalt not enjoy the services rendered by Government if thou or thy parents have contributed nought to the public exchequer.” This was the principle that was invoked by the Conservative government in 1980 when it introduced the policy of “full cost fees” for international students in the UK. It is also the explanation that many UK universities provide today for why international students have higher fees than home students. The following statements on this issue are typical:

Like all universities in the UK, Queen Mary charges two different rates of tuition fees, known as the Home/EU rate and the Overseas rate. International students from outside the EU are generally charged the Overseas rate, which is higher, as no Government subsidy is given to universities for international students to help meet the cost of their education. (Queen Mary University of London 2016)

Universities still get some government funding for UK and EU students but none for international students from outside the EU. International student fees are therefore higher to reflect the full cost of your education. (University of Essex 2016)

Tuition fees for international students are higher because the UK Government subsidises the cost of university tuition for UK/EU students. (University of Sunderland 2016)

The claim, then, is that home student fees are lower because they are subsidized by the UK national government – which they and/or their families have previously supported with their taxes – while international student fees are higher because they are not subsidized by the UK government, and thus have to pay the full cost of their university tuition.

This may sound fair enough, except for one tiny problem: it is not at all clear that the claim is true. UK law does not require UK universities to charge higher fees to international students than to home students, it only requires that international students not receive a public subsidy for their education. In such a situation, one would expect that universities would want to know the full cost of a university education so that they could be sure not to be at risk of breaking the law by under-charging international students. However, such a figure is not readily available in the UK: it is provided neither by HEFCE (the Higher Education Funding Council for England) nor by individual universities; and somewhat surprisingly, given the claims that are regularly made to international students about the level of their fees, it is certainly not made available to international students themselves.

When the “full cost” fees policy was first brought in during the 1980s, the UK government (through the University Grants Council of the Department of Education and Science) used to publish annual minimum recommended fees that universities were required to charge international students, and would threaten universities that failed to meet this minimum threshold (Williams 1987, pp.111-112). There were, at the time, extensive debates about how the costs of educating international students should be estimated. One argument centered on whether this should be based on average unit costs or marginal costs (Fielden & Dalrymple 1987; Dodds 2006; Hansard 1979; Williams 1984). Government policy on international student fees was “irrational” and “based on a false assumption,” argued Lord Wedderburn – who was also a professor of law at the London School of Economics – in a House of Lords debate on the topic in 1979. This was due to:

the insistence by the Government that the cost of overseas students must be calculated on a full unit cost basis; namely, the income of a university divided by the total number of students in that university.... [This] full unit cost cannot be right. If I hold a seminar with 30 students and if 10 overseas students are taken away, the cost to the university is not diminished by one-third, as the Government appear to believe. The cost of the building, of salary and of heating the building is the same.... There is no university in any higher education system in the world which uses the full unit cost as the basis of its calculation for student fees. (Hansard 1979)

Others focused on the question of whether the estimate of the overall cost of international students should include an accounting of the economic and other benefits that international students brought to UK universities and the country's society and economy as a whole (Blaug 1981). John Mace (1987, p.53) thus estimated that actually international students brought a "net gain" not a "net cost" to the UK economy and society, and concluded therefore that the governments full cost fees policy was "inequitable and inefficient in economic and non-economic terms" and was "based on prejudice, ignorance and bigotry." But the British government abandoned the practice of setting minimum tuition fees for international students in the early 1990s (Dodds 2006, p.205); and such debates over how the actual cost of international student education should be calculated have largely disappeared from public view.

Since 1985, the UK government has allowed universities to charge international students fees that are as high as they want, assuming of course that they remain above the level of cost (Williams 1987, p.112); and this is precisely what UK universities have tended to do. As one higher education consultant who advises UK universities on international fee strategies told me, the legal question of the minimum fees that can be charged to international students is never raised now, since "the main concern of universities these days is over the maximum level to which they can raise their fees and maximize revenue." When it comes to international student fees, UK universities tend to charge what the market will bear. As the consultant explains:

Universities operate in international markets that might be segmented, at the top level, according to country, level and subject. In addition, fees tend crudely to cluster around each competitor set, e.g., Oxbridge (and possibly UCL/KCL), then other Russell Group, Alliance, Million+ etc. [different groupings of UK universities of varying levels of international prestige]. Market positioning and university brand recognition plays a really important part as well.

How high above "full cost" are these fees? It is difficult to know in the absence of public figures. However, a 2014 study done by KPMG for the Higher Education Funding Council for England provides some clues. KPMG (2014) estimated that the average annual cost of teaching a full time undergraduate student in the UK during the 2012/2013 academic year was £7,694. During that year, only four universities in the UK charged international student tuition fees that were less than £9,000; at the rest of the country's universities, international fees ranged as high as £22,500 for classroom based courses, £25,000 for laboratory based courses, and £39,150 for clinical based courses (Complete University 2013). Even if we acknowledge that the costs of educating international students are generally going to be higher than those for educating home students, it still seems highly likely that universities in the UK are charging international students considerably more than the full cost of their own individual university education. This, of course, has been a prevailing assumption in UK higher education policy since at least the late 1990s: that one of the benefits of recruiting high numbers of international students to the country's universities is that this will allow universities to earn money that can help subsidize higher education program expansion more generally (Findlay 2011).

So why do UK universities, in such a context, still often claim that their international student tuition fees are set at full cost levels? A charitable account might suggest that this is

a holdover from the original policy shift in the 1980s, so that the language of “full cost fees” has remained, while practice has moved sharply away. A less charitable account might argue that the full cost fees claim has been retained because it is one that is clearly based in nationalist principles of social justice, and thus helps to legitimate practices that are not based on principles of justice (of any kind) at all, but rather on the vagaries of the international higher education market. What is somewhat surprising, given their periodic protests about profiteering and cash cows, is how little attention has been directed toward this issue by international students and their allies in the UK. One possible explanation for this absence may be the increasing diminution of equality expectations for international student fees, as discussed in the following section.

### **The diminution of equality in the marketized university**

“Shifting baseline syndrome” is a concept developed by marine biologist Daniel Pauly to describe the phenomenon in which expectations of what constitutes full environmental health and well-being can become increasingly eroded over time:

the people of every generation perceive the state of the ecosystems they encountered in their childhood as normal. When fish or other animals or plants are depleted, campaigners and scientists might call for them to be restored to the numbers that existed in their youth: their own ecological baseline. But they often appear to be unaware that what they considered normal when they were children was in fact a state of extreme depletion. (Monbiot 2013)

As journalist George Monbiot and others have observed, the concept of a shifting baseline of norms and expectations has relevance not just for the field of ecology, but for social and economic justice more generally.

Shifting baseline syndrome is one way of describing what has happened in the UK over time in terms of how the question of justice in relation to how international student tuition fees are set has been generally understood. When differential fees for international students were first introduced by the government in the 1960s, universities across the UK protested vigorously. Indeed, universities such as Oxford, Cambridge, Bradford and Queen’s University in Belfast directly defied the British government and refused to introduce the new fees that they labelled as being “discriminatory” (Williams 1984; see also MacArthur 1967; *Minerva* 1967). International students at the University of Sheffield formed the Overseas Students’ Bureau in 1967 and campaigned actively against the differential fees policy for the next decade and more (ISC 2017); similar international students groups and campaigns were created at other UK universities as well. In the late 1970s, when the shift to a full cost fees policy for international students was being proposed by the government, students, staff and administrators across the country participated in full scale protests, with student occupations at North London Polytechnic, Lancaster University and the University of Sheffield (Dodds 2006, p.202). In debates in the House of Lords, speakers raged against the injustice of the differential fees policy throughout the decade. The words of Lord Ritchie-Calder in 1976 were typical:

My Lords, I make no apology for rising even at this late hour.... This is a subject on which I cannot possibly restrain myself. I never thought that I would ever have to make this speech.... I

never thought I would find myself in a situation where I would be dealing with a subject which should be so deep and so completely a part of our blood corpuscles. Why should we be thinking at this stage of discrimination – and it is discrimination of the worst kind – on the question of fees, differential fees and rising fees for the world at large? (Hansard 1976)

The full cost fees policy was strongly and widely opposed, as Neil Kinnock told the House of Commons in 1980, by “the Committee of Vice-Chancellors and Principals of the United Kingdom Universities and the Committee of Directors of Polytechnics, ... [and by] every university, polytechnic and college of higher or further education, every education trade union and every students’ union” (Perraton 2014, p.118).

As a consequence of this widespread opposition, the UK government was often forced to resort to threats in order to impose its international student tuition fee regime. In one bizarre episode in 1980, the government threatened to “remove university protection from the Race Relations Act of 1976” if a university refused to follow the new UK policy of charging full cost fees to international students. In other words, the exemption from national anti-discrimination legislation that allowed UK universities to charge differential tuition fees to international students would now only apply to those universities that charged international students the minimum fee rates demanded by the government or higher. As a teaching union representative observed at the time:

This is an absolutely never never land situation. Here is secretary of state signing a waiver to give himself and universities exemption from the Race Relations Act and then telling universities that if they exercise less discrimination their exemption will be withdrawn. (quoted in Crequer 1980)

While opposition to differential tuition fees for international students in the UK was often based on a range of pragmatic considerations – for example, concern that the policy would negatively impact UK foreign policy interests overseas (Williams 1981) – it almost always was embraced as a matter of principle as well: different tuition fees for international and home students was clearly seen as being discriminatory, unequal and unjust.

But with the passage of time, as these battles were lost and the marketization of international higher education took hold, demands for equality in the tuition fees charged to home and international students in the UK either diminished radically or disappeared altogether. Universities in the UK now protest government proposals to limit the numbers of international students coming into the UK, and use as one of their principal arguments for why international students should continue to be welcomed into the country the high revenues that universities earn from them – precisely because they charge these students high tuition fees. A report commissioned by the University of Sheffield, for example, argues that the “net fiscal impact” of international students at the university on the Sheffield economy is “positive,” in part due to a:

direct net benefit amounting to some £97.9 million ... reflecting the fact that the injection of local funds by international students (primarily via fee income and their subsistence spending) is considerably greater than their consumption of local public resources. (Oxford Economics 2013, pp.1-2)

Similarly, Universities Wales commissioned a report that found that “international students studying at Welsh universities are bringing a significant and positive economic benefit to Wales,” through a combination of their tuition fees and off-campus spending (Kelly, McNicoll and White 2015). According to a report on *International students and the UK immigration debate* released by Universities UK, 60% of the UK public “think that international students bring money into their local economy” and 61% “agree that Britain’s universities would have less funding to invest in top-quality facilities and teaching without the higher fees paid by international students,” so therefore “the government should remove international students from any net migration target” and “launch an international student growth strategy” to “attract more international students to Britain” (Universities UK 2014a). All of these reports are ostensibly “pro-international student.” Yet, at the same time, in these reports, what was once considered by the UK higher education sector to be a sign of absolute injustice – high and differential fees for international students – has now been flip-flopped entirely, and become embraced as a claim of justice, good practice and social and economic value.

International student campaigns, too, have, for the most part, abandoned the demand for equal fees for home and international students, and instead now focus on proposals to have “fixed fees” for international students. The “international student fixed fee guarantee” campaign was launched by the National Union of Students (NUS) in 2014 to get universities to promise either not to raise international tuition fees for students during their course of study, or at the very least, not to raise international tuition fees above the rate of inflation. Research by the NUS (2014a, p.4) found that “almost two thirds of institutions do not guarantee fixed fees for cohorts of students” and “levels of fee increases range from the hundreds to the thousands of pounds per year.” While the fixed fees campaign addresses an issue of genuine concern to international students, it also risks shifting and reframing how issues of equality and fairness are conceptualized in relation to international students. The NUS *International Student Fees Charter* thus speaks of the aims of transparency, involvement, sustainability, flexibility and stability of higher education course costs – but says absolutely nothing about the inequality between the fees charged to home and international students. Local campaigns have tended to follow a similar pattern. The Aberdeen University Students’ Association invokes the “aim of securing equality of opportunity for all before, during and after university” not in order to demand equal fees for students of all backgrounds, but rather to demand that their university commit to fixed tuition fees for international students (AUSA 2012). Likewise, when the London School of Economics Students’ Union argues that international tuition fees at the LSE are “unfair and discriminatory,” it is referring not to the tuition fee differential between international and home students, but to the university’s failure to fix tuition fees for international students during their course of study (Syrengela and Wootten 2015, p.2). While there are exceptions, the comments made by one Russell Group university student union international officer are typical. The fixed tuition fee campaign for international students had been a major focus for this student union for the last two years, and despite having twice been rejected by their university administration, the union was planning to make a renewed attempt in the coming academic year. However, when I asked the student union officer whether there had been any discussion about the fee differentials between home and international students, her response was unequivocal: “No, actually... And I think that’s pretty much the norm across

the country that nobody ever questions that, about why [international student tuition fees] are higher.... It's definitely a very accepted thing, which is sad."

### **The arbitrariness of the nation state border**

In debates on global justice, the argument is often made that there is something more primary and fundamental about the duties of justice owed one's national compatriots over other individuals from other nation states in the world (Brock 2008). Due to "our membership in national political communities," David Miller (2008, p.384) argues, we are "inclined to believe that we owe special obligations to those we are bound to by ties of history, common culture, common language," and "we ought to give their interests special weight when considering what forms of distribution or redistribution justice requires." Yet, the creation over the past half century of a dual regime of university tuition fees for home and international students in the UK shows up just how arbitrary and poorly defined the nation state border can actually be in practice. As Peter Williams (1981) observes, "since differential fees were first introduced in 1967, there has always been the problem of the precise cut-off point at which a student with overseas origins might become classified as a home-fee-paying student, whether on grounds of periods of residence and study in the UK, of descent from or affinity to UK nationals, or by virtue of immigrant/refugee status."

Every year, the UK Council for International Student Affairs (UKCISA) publishes its *UKCISA Manual*, which is an "annually updated guide to regulations and procedures for international students." In 2016, the section of the manual dedicated to helping education staff in the UK determine who is a home and international student for the purposes of assessing eligibility for fees and student support runs to more than four hundred and forty pages (UKCISA 2016a). UKCISA (2017a) directly warns readers on its advice website that "in the context of the fees regulations," "certain terms" do not mean "what you might interpret from an 'everyday' understanding of the words." Rules for determining student home status vary between England, Wales and Scotland; between higher and further education; and between considerations for tuition fee rates and access to student support. A student may be a UK citizen and not be considered a home student; they can also live and have grown up in the UK and still not be considered a home student. In general, home status determination is based on the requirement that a student have been "ordinarily resident" in the UK for three years leading up to and including the first day of the academic year, and be "settled" in the UK, meaning they have the right of abode, indefinite leave to remain, or right of permanent residence in the UK. But there are further complications: residence in the UK, for example, "must not during any part of the three-year period have been wholly or mainly for the purpose of receiving full-time education" (UKCISA 2016a, p.553). Students who have been in part-time education, or who have been in full-time education but this was not the primary purpose for their being in the UK may be able to meet the residency requirement. Indeed, the *UKCISA Manual* includes a twenty page appendix covering more than twenty different decisions from UK case law over the years, over whether individual students should be deemed to have a home or international status.

The membership of the United Kingdom in the European Union, until this comes to an end, further complicates the determination of home status for university students. Due

to EU anti-discrimination legislation, students entitled to pay home student tuition fees at UK universities include students who have been ordinarily resident in any European Union country, most European Economic Area countries, and in European overseas territories in Africa, the Caribbean, South America, the Atlantic and elsewhere – even if these students have never set foot in the UK before. This leads to often bizarre permutations: for higher education fees in England, only students from the Republic of Cyprus (but not the northern part of the island of Cyprus) are considered to be home students, while for further education fees in England, students from any part of the island of Cyprus are considered home students (UKCISA 2016a, p.906). There are a further set of gerrymandered regulations, such that, if certain conditions are met, the children of Turkish workers, Swiss migrant workers and Syrian refugees can all be called, for the purpose of assessing university tuition fees, home students. One of the greatest concerns and uncertainties for UK universities, as well as European students, their families and communities now centers on the question of exactly how and when the UK decision to leave the European Union will impact these students' current status as being home students who are eligible for home tuition fees and student support. The "membership in national political communities" that is invoked by David Miller and others, who argue for clear distinctions between (national) social justice and global justice, is always conditional and subject to policy shifts and court decisions made for political purposes and informed by ideological beliefs; and the "special obligations" that such membership is claimed to give entitlement to can always be taken away.

In 2013, Chrisann Jarrett, head girl at Clapton Girls' Academy in Hackney, London, was offered a place to study law at the London School of Economics, only to discover that she was not eligible for student loan support and would be charged international tuition fees. The reason was a couple of policy changes that had taken place over the previous years: in 2007, the UK government allowed universities to treat students in the UK who had only discretionary or limited (but not indefinite) leave to remain in the country as if they were international students and thus charge them international tuition fees; and in 2011, the government made students with discretionary or limited leave to remain in the country ineligible for student loans. Jarrett, who had lived and been educated in London for ten years – over half her life – had immigrated to the UK from Jamaica at the age of eight, and her family had been granted only discretionary leave to remain (Just for Kids 2014; Swain 2014). It soon became apparent that Jarrett was far from the only young person affected by these policy changes: the charity Just for Kids Law estimated in 2015 that "between 500 and 600 children a year reach their final school exams only to discover that despite good results they cannot get to university," because of their immigration status (Bowcott 2015). Jarrett and several of these young people worked with Just for Kids Law to form an organizing group called "Let Us Learn" that campaigned to change the poor situation.

By 2015, the problem of UK based students with discretionary or limited leave to remain being blocked from going to university as home students reached the country's Supreme Court: the case was based on another student, Beaurish Tigere, who immigrated to the UK from Zambia at the age of six, spent the next thirteen years of her life living, growing up and being educated in primary and secondary schools in York, only to find that when she applied to university she was considered to be an international student due to her immigration status (Bowcott 2015). In July 2015, the Supreme Court ruled in favor of

Tigere's claim that she had a right to home student tuition fees and loan support; and a year later, the UK government was forced to introduce to new category called "long residence," in which home student status could be granted if a student is under 18 and has lived in the UK for the previous seven years, or is 18 years or older and has lived in the UK for at least half their life or a minimum period of twenty years (UKCISA 2017a). Despite the clear victory, campaigners worry that some young people in the UK still remain excluded from home student status for going to university (Makinde and Erdunast 2016). But there is another potential threat to be concerned about as well: for the Supreme Court decision in the Tigere case was based on the Court's finding that UK tuition fee policy was in contravention of provisions of the European Convention on Human Rights that guaranteed the "right of access to education" and prohibited "unjustifiable discrimination linked to national origin" (Supreme Court 2015). There is currently no way of knowing yet whether this law will continue to be respected in the wake of the UK's impending exit from the European Union. It is not just European students, then, who might soon find themselves expelled from home status designation in the UK in the wake of Brexit – but students from a wide range of other backgrounds as well, many of whom have spent much or even most of their lives growing up in the UK, but who lack the indefinite right to remain in the country.

### **Unjust equality in a globalized higher education sector**

Equality, as many who support the ideal argue, is not an intrinsic good but a goal of social and educational justice to the degree that it is foundational for a wide range of other moral ideals as well. There can be unjust and undesirable forms of equality as well as just and desirable ones: for "equality itself is as well pleased by graveyards as by vineyards" (Rae 1981, p.129). As Stefan Gosepath (2011) observes, it would be "morally perverse" if "in a group consisting of both blind and seeing persons, those with sight were rendered blind because the blind could not be offered sight;" a "morally good" vision of equality in such a context would be to search for "better and equally egalitarian alternatives" such as asking that "those who can see should have to help the blind."

In the UK, one of the few universities that charges the same tuition fees to home and international undergraduate students is Regent's University, a small university in London with about 3600 full time students. As the university tells students on its website:

At Regent's, you will be part of a truly international community, with the opportunity to make friends and contacts from around the world. We are all international [at Regent's]. All of our students pay the same fees, regardless of nationality. (Regent's University 2017)

This overt commitment to internationalism and equality across borders may seem appealing and just, but there is a catch. The reason that Regent's charges all students the same tuition fees is not because it charges international students what are typical home student tuition fees (capped at £9250 annually for undergraduate students in the 2017-2018 academic year), but because it charges home students what are typical international student rates (£16,400 at Regent's for the 2017-2018 academic year); and the reason it is able to do this is that Regent's University is one of a small but growing number of private universities in the UK that are not subject to the same tuition fee regulations as public universities. Indeed,

when taking into account tuition fees, accommodation costs and other living expenses, Regent's University earned the dubious distinction of being named in January 2017 as the most expensive place to do an undergraduate degree in the UK, costing an eye watering 40% more than even the second most expensive university in the UK (Pells 2017).

It has long been a fear among student and academic staff campaigners that failure to shut the door on the marketization of international student fees would be the thin edge of the wedge that would lead to the full marketization of all students' tuition fees, including home and international students alike – what Leasa Weimer (2015) refers to as the “gate theory” of international student tuition fees. Home student tuition fees have risen considerably in the UK recently, almost trebling between 2011 and 2012 (from a cap of £3375 annually for undergraduate students in the 2011-2012 academic year to a cap of £9000 the following year). One consequence of this, as many academic staff working with international students note, is that the relative degree of inequality of tuition fees between home and international students has declined. As the director of student services at a large university in Greater London reflects:

There used to be that dynamic whereby international students would see the differential [in tuition fees] and go, 'Well, I'm paying that much more, therefore I must be entitled to that much more.' Whereas now the differentials are quite small ... and therefore the voice of the international non-EU students is kind of not quite as loud, because of that differential being so much smaller.

For the past decade, the Russell Group of elite universities in the UK has been consistently pushing for the complete abolition of the tuition fees cap for home undergraduate students at public universities in the UK, so that these fees would become fully marketized in the way that they already are for international students. The Group's submission to the Browne Review of higher education in the UK in 2010 called for “liberalisation of the fee regime” and argued that “the most effective way of protecting quality while ensuring long-term sustainability would be to allow institutions to determine the level of all fees for all undergraduates and not just postgraduates, part-time and international students” (Russell Group 2010a, p.15). The expectation behind such demands is that, if the fees cap for home students were removed, then home student tuition fees at Britain's elite universities, at least, would rise to the level that fees have already reached for international students. The rationale for the demands explicitly invoke these universities' standing as international not national institution – and the need to have high levels of funding in order to remain “first rate,” “world class” and “internationally competitive” (Garner 2013).

The current example of Regent's University and possibility of other UK universities being able to increase home student tuition fees until they reach par with international student fees provide clear and concrete support for the concerns expressed by Miller (2009) and others that letting go too easily of national level commitments to justice and equality in favor of embracing more global or international visions can be harmful. “Encouraging people to adopt a more cosmopolitan identity may weaken their commitment to social justice ... without at the same time making them any more committed to global justice,” writes Miller (2009), and as a result, “rather than strong principles of distributive justice for the world, we get weak principles of justice for those at home.” Certainly, when we consider examples of educational policy and practice such as the setting of university tuition fees,

provision of bursaries and other forms of student support, and shaping of recruitment and admissions decisions, it is only within the national sphere that considerations of equality, justice, social welfare and the public good have played a strong and central (even if rapidly diminishing) role. Internationally, the rules of the market have reigned supreme. In such contexts (though not in all contexts), then, the promotion of greater equality of condition between home and international students is only likely to lead to a socially just and morally good form of equality if it entails seeking to treat international students more as home students are treated. For if equalization is pursued in the other direction – treating home students as international students are treated – then, as Miller warns, this is all too likely to lead to a weakening of commitments to social justice in favor of an increased, universalized marketization of the higher education for everyone.

### **International student tuition fees beyond the UK**

How typical is the UK in its current practice of charging differential tuition fees to home and international students? According to the OECD's (2016, p.247) *Education at a Glance 2016*, nineteen OECD countries charge higher tuition fees to international students, including the top three destination countries for international students (the UK, USA and Australia); while fourteen (mostly European) countries do not differentiate between home and international students in terms of fee setting (some charge no tuition fees to any of their students). A report by the European Commission (2015), though, suggests the OECD is over-estimating the number of countries that do not differentiate between home and international students in terms of tuition fees; and the trend worldwide, with some notable exceptions such as Germany, has been in the direction of introducing higher fees for international students. Denmark introduced higher international student fees in 2006, as did Sweden in 2011 and Finland in 2016; France debated introducing higher international student fees in 2015, although ended up deciding against the policy change (De Gayardon 2016; Sandstrom 2017; Weimer 2016). Indeed, the OECD itself has actively promoted the global introduction of higher fees for international students, as a way to increase funding of national higher education sectors (Kauko and Medvedeva 2016, p.103).

Overwhelmingly, debates over international tuition fees have been framed by a concern with market interests. In particular, policy makers, sector leaders and researchers have focused on the potentially harmful impact of fees, raised fees and differential fees on reducing overall international student numbers in a country's universities (Beine, Delogu and Ragot 2016; OECD 2016; Yang and Wang 2016); and on the competing market agendas of increasing revenue from international student tuition fees, on the one hand, or keeping international tuition fees relatively low as a way to serve soft power interests of building economic ties with countries overseas through recruiting international students who subsequently return to these countries, or attracting the world's best and brightest to study, work, settle and thus help to drive national economic growth (AFP 2012; Matthews 2017). Concerns with social justice, though distinctly marginalized, have tended to focus on the unfair burden on taxpayers to have to subsidize the education of other countries' students by those who wish to increase international tuition fees; and on the moral duty to support the higher education of individuals from low income countries, as well as the political threat that raised international student fees may pose to continuing commitment to subsidize

home students' university degrees by those who wish to keep international tuition fees low (De Gayardon 2016; Weimer 2016). Equality as a central principle in educational policy and practice has received very little attention in most of these discussions worldwide over tuition fees for international students.

Equality, though, is vitally important to think carefully about in relation to home and international student tuition fees – just as it is across all other areas of higher education policy and practice. We need to recognize that there are alternative ways of thinking about tuition fees, that the commitment to a global vision of educational equality in the setting of tuition fees is not some fantastical vision for a distant future but an actual reality, in the recent historical past of the UK and in some other countries today. This is an ideal that students, staff – and some of the country's most prestigious universities – have been willing to fight for, including at times, in direct defiance of the state. We also need to recognize that the acceptance of the dominance of market logic and embrace of nation bound visions of educational justice not only leads to the expulsion of international students from equality concerns when it comes to issues such as tuition fees, but can have a whole series of other harmful effects as well: the exposure of international students to the dangers of profiteering and financial exploitation; the gradual diminution of core understandings of and commitments to equality as an ideal over time; the buildup of ever more tightly and bureaucratically defined and controlled nation state borders; and eventually, the possibility of undermining even the remaining commitments to national justice themselves, as home students too become subject to the vagaries of an internationally defined and oriented higher education marketplace. To return to where the discussion in this chapter began: universities in the UK, as elsewhere, continue to express publicly their universalist commitments to educational equality. It is incumbent on them to think through clearly and explicitly just what these commitments mean and should mean in the international arena in which they now operate – or alternatively, concede that these are little more than left over relics from a now rapidly receding past.

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