Teaching, testing, and the veil of ignorance:

Rawlsian thought experiments for use in the organized resistance to high-stakes testing

Zachary Stein

Abstract: In an attempt to help the organized resistance to standardized testing policies in the United States and beyond, I explore the use of John Rawls’s ethical thought experiment “the original position” as a focal point of transformative learning praxis. The use of this thought experiment helps in clarifying the social justice issues implicated in standardize testing practices. I use the thought experiment to engage some of the controversy surrounding the recent cheating scandal in Atlanta. I also explore some of the recent civil disobedience and activism movements focused on testing in the US, showing that they are on the side of justice, and that they are rightly defending legitimate civil rights. Finally, I demonstrate how Rawlsian thought experiments about standardized testing can be used in the classroom or for facilitation and organization of teaches and administrators seeking clarity about social justice and testing. By literally using the original position as a transformative learning activity, groups can come to clarify for themselves the nature of the testing regimes in which they participate. In all cases the social perspective taking required by the thought experiment asks participants to consider testing practices from the perspective of everyone involved, with special attention to how testing impacts the the least well off.

Keywords: Standardized testing; social justice; transformative learning; John Rawls; cheating; educational activism
On the new politics of standardized testing

In cities and towns across the United States people of all ages and from all walks of life are simply refusing to administer, take, or have their children take standardized tests. The movement is bipartisan and spans socio-economic divides. The issue has the most experienced teachers in the country retiring or protesting. Thousands of kids a month are retreating into homeschooling. Testing is doing this. Not history textbooks or computers or sex education or debates about the football team or the arts. It is these pencil and bubble (now mouse and click) tests that are fragmenting the public schools in the US, and spawning a growing and increasingly successful organized resistance movement. Of course, standardized testing has a long history of controversy, dating back to the Eugenics movement at the turn of the last century (Gould, 2009). There was also controversy again (in the US) in the 1970s when the SAT ran head on into affirmative action (Lemann, 1999). Now we are witnessing “a new uprising against high-stakes testing,” which is spreading across the country (Hagopian, 2014). Why is this so? Why is standardized testing such a flash point?

I believe this is so because of the intrinsic relation between testing and social justice. Much (but not all) of the contemporary discourse about testing is beating around this bush. It can be said very clearly: many standardized testing practices violate the basic civil rights of students and teachers. This can be said in the same way it can be said that certain conditions of employment (like sweatshops) violate the rights of workers. This is why people feel it when they are on the receiving end of unjust testing practices. There is a very clear moral intuition, if we can engage the phenomenology of moral consciousness (Habermas, 1990), that many testing situations are unfair and unconscionable in a much more profound way than other educational situations. Often this intuition remains inarticulate, and instead of framing testing as a civil right issue, we
complain about how testing narrows the curriculum, causes too much stress, and encourages cheating and competition. All this and more are true and reason enough to do away with most forms of high-stakes testing. But these are all symptoms of the deeper structural injustices that result from standardized testing practices. In this paper I outline a reflective process, an ethical thought experiment, which can be used to help individuals and groups in articulating and explicating these intuitions of testing related structural injustices.

Importantly, most textbooks or curriculum can be used in unexpected and unintended ways once the teacher shuts the door. They can be used against the purposes for which they were disseminated (Apple, 1995), as a form of counter hegemonic practice. However, high-stakes standardized tests cannot be subverted so easily. Tests are the sharp end of the stick when it comes to the enforcement and surveillance of teaching and learning practice. In fact, certain forms of testing can insure that teachers do not exercise their professional judgment once behind closed doors; testing disciplines and standardizes teaching and learning (Stein, 2014). This is, in part, because tests are measures that are intended to yield scientific and objective results. Test administration is thus not open to interpretation, nor is what follows from the numbers produced by the test (e.g., school systems go into receivership; individuals are denied access to institutions, etc.). This nonnegotiable scientific-bureaucratic function leaves little room for those on the receiving end to create spaces for counter hegemonic resistance and pedagogical freedom. This is why it so often feels more unjust and alienating to be tested than to be handed an ideological textbook or age-inappropriate lesson plan. Of course, it is also this non-negotiability that causes what resistance there is to testing to be so stark; unjust testing practices cannot be subtly subverted in the classroom, so teachers are simply walking out of the classroom on testing day.
To clarify the moral intuitions if my own graduate students I have used a thought experiment and related transformative learning activity when teaching classes in the philosophy of education and educational assessment. The goal is to offer a disciplined way to clarify shared moral intuitions and to organize thinking about the ethical and political situations in which my students are implicated. I believe that to help others become more articulate about the ways that testing is unjust helps serve in the facilitation and organization of resistance to unjust testing regimes. This paper contextualizes and outlines an approach to raising consciousness and critical-mindedness (i.e., conscientization) with regard to standardized testing.

I draw on the classic philosophical work of the American ethicist John Rawls, who provides the basic outlines of a thought experiment in the form of his famous philosophical device, “the original position” (Rawls, 1971). Then I go on to discuss the recent cheating scandal in Atlanta, using this framework to clarify the moral complexities missed in mainstream accounts. I also discuss some more positive forms of disobedience, specifically a movement that is growing around organized resistance to testing, including boycotts, walkouts, and take-to-the-streets protests. In both cases Rawlsian thought experiments provide some unique insight into who is in the right and who is in the wrong. I conclude with a set of recommendations for using such thought experiments as a part of the organized resistance to standardized testing. I translate Rawls’ philosophical device into a reflective practice and transformative learning activities for use with teachers, students, parents, administrators, and others with an interest in clarifying the social justice issues related to standardized testing.
The original position, or justice as the view from everywhere

Before discussing the thought experiment a few words are needed on the philosophical methods being used here to think through what justice is and to adjudicate between what is just and unjust. While many philosophical and ethical ideas are discussed, focus throughout is placed primarily on the methods and models of the great moral philosopher, John Rawls. Narrowing the focus to a single thinker is intended to simplify the discussion of social justice—drawing on the value of an exemplary theory instead of trying to draw on the value of a set of theories or build some new theory of justice.

There are, in fact, many theories of justice that could be used to clarify the relationships between standardized testing and social justice along the lines undertaken here. Habermas, Nussbaum, Dewey, and Illich all come to mind. No doubt, taking these different theories as a starting point would result in an argument different from the one developed here. Yet it is hard to imagine (given the continuities of these ‘competing’ theories of justice) that there would not be an “overlapping consensus” on many of the central insights. In any case, the goal here is to demonstrate as clearly as possible the social justice issues implicated in standardized testing, not to engage in philosophical debates about competing theories of justice. Rawls is taken as a primary guide not because his is the only or best theory, but because, for the purposes here, his views provide the minimal complexity necessary to deal with the issues that are of primary concern in addressing the relationships between testing and social justice.

It should also be noted that I stumbled upon the sheer usefulness of Rawls as a part of teaching graduate students in the philosophy of education and educational assessment. It was hard for students to see testing in comprehensive and overarching terms, separate from its specific impacts on teaching, learning, curriculum, time-management, professional autonomy, race
discrimination, cheating, and so on. All of these issues are implicated in testing, no doubt. But in order to clarify how testing is implicated in basic issues of civil rights, nothing served class discussion more than Rawls’ theory of justice, both because of its simplicity and because of the powerful thought experiment at its core.

Ethical frameworks, like the theory of justice being used here, cannot be directly confirmed or disconfirmed in the way scientific hypotheses can. But there are systematic methods for building and justifying them. Rawls and others (Daniels, 1996) argue for a methodological approach to building and justifying ethical frameworks, which aims to make them suitable for guiding reform, policy, and activism. The components of ethical frameworks—principles, judgments, and empirical generalizations—must be explicated and then “tested” against the varied experiences and competing accounts already available on the topic. The ethical framework thus undergoes a process of iterative revision until it is brought into a state of broad reflective equilibrium (Rawls, 2001). This is a state of “provisional justifiability,” occurring when an ethical framework is shown upon reflection to be internally coherent, empirically tenable, and consistent with considered moral experience. Justifying an ethical framework thus requires demonstrating its ability to maintain a broad reflective equilibrium, its ability to handle a wide variety of particular cases while still maintaining its logical consistency, its ability to account for accepted facts, and its capacity to make sense of our most assured moral judgments.

To clarify, reasonable individuals typically work to achieve a narrow reflective equilibrium whenever a novel occurrence forces them to reconsider their beliefs, a process by which long held beliefs are opened to revision in light of new experience. For example, someone believing that standardized testing practices promote discipline, higher standards, and accountability is likely to revise this belief, or at least qualify it, when confronted with the details of large-scale
faculty-organized cheating in urban school districts (discussed further below in the case of Atlanta). Revising this belief requires revising other beliefs that are related to it, but not necessarily letting go of commitments to discipline, standards, and accountability. On an individual level, reflective equilibrium is the process through which ethical reasoning leads to learning and conceptual change, as the integration of new experiences reshapes existing beliefs (Kohlberg, 1984; Habermas, 1990).

Philosophers work to achieve a broad reflective equilibrium. This is a process during which philosophical principles and judgments are systematically “tested” against the best of our knowledge and the various convictions and realities of our lived experience. For example, a philosophical principle that would exclude all standardized testing from educational practices (e.g., “categorizing students is unethical”) must be revised, or at least qualified, if it is to reflectively accommodate arguments and data concerning the use of diagnostics with special populations, the fair organization of large-scale social benefit programs, or the importance of advancing the learning sciences. Revising this principle would have ramifications throughout the problematized ethical framework, as demands for internal coherence and consistency set off a cascade of conceptual revisions. For an ethical framework to maintain a broad reflective equilibrium it must be in dynamic contact with, and learn from, a variety of potentially dis-equilibrating realities, difficult case studies, and provocative thought experiments. Philosophers have used this method to build and justify a variety of ethical frameworks, most recently for bioethics (Buchanan, Brock, Daniels, & Wikler, 2000), disability advocacy (Nussbaum, 2006), and international law (Hayden, 2002).

An ethical framework concerning educational assessment must be able to account for our considered judgments about a wide variety of testing practices. So it basic components should be
very general, and capable of making sense of testing practices in any location. As much as we need local and unique responses to particular testing practices in particular schools, we need a general theory of when and why testing can result in injustices. This unifies the arguments coming from the resistance around a principled stance regarding basic civil rights.

The simplest way to see the social justice issues implicated in testing is to consider the design of standardized testing infrastructures as if from behind a Rawlsian “veil of ignorance.” The “original position” is the central philosophical device deployed by Rawls. It is intended to clarify the objectivity and universality of the “moral point of view.” The original position is basically a set of decision-making constraints that support reasoning about the nature of justice; it simply asks us to consider the basic structures of a society as if ignorant of our eventual place in it. The archetypal case is drafting a constitution without knowledge of whom or where you will be in the society it creates. Thus it would be irrational to draft a constitution supporting slavery or limiting voting rights to landowning males, because there is no guarantee you would not end up enslaved or disenfranchised. Engaging Rawls’s thought experiment means that instead of viewing social structures from *my* perspective (i.e., that of a well-educated white male), I am forced to consider society from *everyone’s* perspective (e.g., that of a woman, of a minority, etc.). A social system that can be viewed as reasonable from this meta-perspective is one that provides justice for all. It is worth quoting Rawls (2001, pp. 14-17) at length summarizing the motives and design of his famous thought experiment:

We start with the organizing idea of [a just] society as a fair system of cooperation between free and equal persons. Immediately the question arises as to how the fair terms of cooperation are specified.... They [are to be] settled by an agree-
ment reached by free and equal citizens engaged in cooperation, and made in view of what they regard as their reciprocal advantage, or good.... The difficulty then is this: we must specify a point of view from which a fair agreement between free and equal persons can be reached. This point of view must be removed from and not distorted by the particular features and circumstances of the existing basic structures [of society]. The “original position,” with the feature I have called the “veil of ignorance,” specifies this point of view. In the original position, the parties are not allowed to know the social positions or the particular comprehensive doctrines [worldviews] of the persons they represent. They also do not know persons’ race and ethic group, sex, or various native endowments such as strength and intelligence.... We express these limits on information figuratively by saying the parties are behind a veil of ignorance.... The significance of the original position lies in the fact that it is a device of representation or, alternatively, a thought-experiment for the purpose of public- and self-clarification....

This is not the place to get into the complexities surrounding the original position and its various formulations (see: Freedman, 2007). Rawls intended this thought experiment for use mainly in adjudicating between different philosophical principles of justice, but did occasionally use it for thinking about more specific social structures and institutions. However, for the purpose of clarifying the social justice issues in many situations, the thought experiment serves as a valuable heuristic and allows us to cut directly to the chase.

The overarching themes discussed in the rest of this paper can be distilled into a single question: what kind of standardized testing infrastructure could be agreed to in the original posi-
tion? This question can be put at the center of a *theory of just educational measurement*, a full account of which is beyond the scope of this paper (Stein, 2014). The goal here is to deepen and explore the simplest and most basic way of thinking about testing infrastructures and social justice.

Several issues are clarified immediately through the “ideal role taking” exercise of imagining that one could end up anywhere in the systems affected by testing infrastructures. Key stakeholder groups emerge, each with their own institutionalized relationship to testing and each containing a range of individuals (from least well off to most well off). Students and their parents are one group, and their range can be viewed both in terms of socio-economic factors and in terms of learning abilities. Teachers are another group, again including a range of individuals who vary according to their skills and socio-economic positions. Then there are the administrators at various levels within the school system (from principle to superintendent), who are also differentially positioned. Policy makers and politicians constitute another group, as do psychometricians and others representing the interests of testing companies. There are of course other stakeholders (e.g., parents, educational researchers, college admissions officers, etc.), but the heart of the argument resides with these main groups, including students and their parents, teachers, administrators, policy-makers, and test providers.

The most vulnerable individuals in the social structures created by testing are the least-well-off students and teachers (e.g., learning disabled students in an inner city school and their special education teacher); the least vulnerable are the politicians and those representing the interests of testing companies (e.g., the US Secretary of Education and Educational Testing Service executives). As in many cases where injustices occur, the most vulnerable—those who are potentially most seriously affected—are also the least empowered and the farthest away from influ-
ence over the systems that profoundly shape their lives. The task of building a just standardized testing infrastructure (as with any basic social structure viewed from the original position) requires taking as primary the perspectives of the least well off, because this is the social position that is of greatest concern from behind the veil of ignorance (e.g., its the place you would least like to end up in the system). Justice requires maximizing benefits to the least well off while maintaining overall fairness within the system.

Broadly speaking, this means a testing infrastructure that awards those who are already advantaged while punishing those who are already disadvantaged is unjust because it further disadvantages the least well off. I argue that the history of testing from the early IQ-testing movement to recent policies supporting test-based accountability has mostly fit this unjust pattern of differential reward and punishment.

Social justice is also implicated at the level of test design and administration. For example, objectivity and standardization are required by justice—this is the moment of truth expressed by those who tout the social justice benefits of testing. Indeed, many of the most egregious cases of injustice due to testing have involved a pretense of objectivity that has disguised the existence and impact of overt bias and errors in test design and scoring. I argue that all individuals have a right to objective measurement (Stein, 2014). However, even truly objective tests, when they are used in high-stakes contexts or focus on a narrow range of constructs and item types, create injustice. Justice demands that individuals have access to measures that are relevant and beneficial.

In order to clarify this way of thinking about social justice and testing I turn now to discuss some recent events in US where testing has shown itself to be deeply implicated in basic issues of civil rights and social justice.
Cheating in Atlanta: The Tragedy of The Scapegoat

The largest cheating scandal in the history of American education is coming to a painful and contradictory end. In April and May of 2015, 11 educators from the Atlanta Public School District (APS) were found guilty of racketeering, theft, and false statements. At the first hearing all 11 were directly escorted from the courtroom in handcuffs, in what was a dramatic scene. They faced up to 20 years in prison, but mostly got off with plea deals (Blinder, 2015). Millions of dollars and countless teacher and student hours were wasted in the APS between 2002 and 2010 as a result of what was the largest single cheating scandal in national history. Hundreds of pages of evidence generated by the Georgia Bureau of Investigation (GBI, 2011) documented the broad sweep of the scandal in which 44 of the 56 schools in the district were found to have cheated on the 2009 federally mandated state test alone. In 2013 over a dozen employees of the APS were indicted on charges of fraud, conspiracy, and racketeering, including the superintendent of schools. Yet these were merely the ringleaders, as evidence suggest that many more teachers and administrators were involved in altering tens of thousands of student answers. This is a remarkable series of events and it has grabbed national headlines. The cheating scandal brings to light the dark underside of the high-stakes school environments created by recent federal policies in the United States, specifically the polices known as No Child Left Behind (NCLB), instituted in the G.W. Bush administration.

Atlanta is such a striking example because it appears cheating activities were orchestrated from the superintendent down through local principals and into the classrooms of a wide array of teachers. Teachers reported being threatened by administrators if they did not participate, some teachers who spoke out were fired or transferred out of the district. The cheating itself was car-
ried out by teachers, who would get together on weekends to change answers on the answer sheets of multiple-choice tests. Transparencies were produced that could be laid over answer sheets allowing teachers to eyeball the answers that needed changing (a scene reminiscent of the earliest mass-administered multiple choice tests, which were scored using stencils overlaid on answer sheets). This technique enabled wrong-to-right erasures altering tens of thousands of answers. Ultimately, it was the sheer number of the wrong-to-right erasures (which can be detected if desired by Scantron machines) that allowed investigators to determine the extent and intensity of the cheating.

It is worth noting that the technology of multiple-choice, which dates back over a century, was essential in allowing for this form of widespread and organized cheating. While it is possible to cheat on any test, this approach to testing facilitates the ease and efficiency with which large-scale cheating can be accomplished. The multiple-choice format also lends itself to certain forms of test-prep that are entirely devoid of educational value and yet do boost test scores and are thus widely used, taking up thousands of hours of student and teacher time. The result of this cheating (before it was discovered) was to bring both money and acclaim to the APS. These benefits were primarily directed toward district and school administrators who embraced the opportunity to get funds and praise for their schools as well as to pad their own pockets and grace the cover of national education magazines.

Behind this public-facing positive image, the consequences for students and school cultures were dire. Hundreds of students were denied special education services because their teacher-altered test scores were near perfect. For the same reason, students not ready to move on to the next grade were advanced. One student who refused to take the test at all and hid under his desk in a fearful protest of the high-stakes environment ended up receiving scores that were well
above proficient. When this student’s parents contacted the school after hearing their son’s story they were told to look the other way and enjoy their child's lucky break. In another series of disturbing incidences, observant students who suspected that cheating was taking place and brought it to the attention of teachers and administrators were punished. It is hard to imagine the impact of these actions on the children involved. An entire generation of already disadvantaged students had their understandings of the value and legitimacy of the educational system completely undermined, not to mention their ability to trust in the integrity of adults.

Unfortunately, the predominate narrative about Atlanta in the national news was to blame the teachers and administrators and to draw attention away from the impact of the structures put in place by NCLB. In an official statement by the Federal Department of Education (Duncan, 2011), reference was made to “the rotten cultures” in the schools and suggestions were made that cheating was an “easy problem to fix with better test security.” The story told was one in which testing polices put in place to help students were being corrupted by selfish teachers and administrators.

Of course, Atlanta is only one of many school districts caught cheating during the NCLB era. And explaining such a widespread trend as merely an aggregate of individual moral failings simply ignores the broader structural factors that are in play. Likewise, seeking to resolve the problem by “improving test security” ignores the underlying issue. Which has more to do with the system of incentives put in place by NCLB than with particular isolated “rotten cultures.” What happened in Atlanta happened elsewhere, and it is a symptom of the deeper structural injustices created by testing.

Some have argued that as a set of policies NCLB actually incentivized cheating by tying money and job security to getting test results that are unattainable by any other means (Hursh,
But it is less often noted that NCLB presented many teachers and principals with a complex moral dilemma in which an unethical act could be seen as the only way to achieve something unquestionably good (akin to the classic dilemma of whether an individual ought to steal in order to feed their starving family). Now, this is not the case for those who were put in handcuffs in Atlanta. They put a lot of money into their pockets and callously accrued a great deal of other benefits.

The consequence of NCLB in many schools was to create a culture of fear and unfreedom as testing came to dominate the lives of teachers and students, who were increasingly subject to the demands of a demonstrably unreasonable measurement infrastructure. The pressure exerted by the new federal law had a trickle down effect, leading to intense pressures on administrators and principals who then exerted pressure on teachers, who in turn pressured students, with everyone always aware of the consequences of not making the necessary scores, and many (especially teachers and principals) aware that that goal itself was unattainable. In some schools, and especially those in poorest urban districts, the choice for administrators and teachers was stark: find some way (anyway) to increase test scores by unreasonable amounts, or lose your job and watch a school that had been in the neighborhood for generations shut down and turned into a private enterprise. With these options it is easy to see why cheating occurred throughout the country at alarming rates (RAND, 2010; Koretz, 2008).

Note also that many other forms of behavior that were at one time deemed immoral and unprofessional for teachers (such teaching to the test, or neglecting to teach whole subject areas) became widely embraced during NCLB. These practices can be seen as immoral, given that they undermine student's rights for educational primary goods, equality of opportunity, and self-actualization. The prevalence of these practices contributed to a widespread sense that NCLB
was forcing teachers to fundamentally compromise their professional ethics, a trend that led many of the best teachers to resign (Ravitch, 2013). From the perspective of teachers and administrators already thus embattled and demoralized, cheating could appear as just another step down a slippery slope they had already partly descended. Again, the point here is not to condone cheating, but to explain it (that is, to explain it without assuming those involved were simply evil). The argument is not that NCLB made cheating acceptable, but rather that NCLB created a system in which well meaning people could consider cheating as a wrong worth committing in order to avoid the possibility of being subject to even greater injustices.

Make no mistake: cheating is almost always deceitful and damaging. Run the Rawlsian thought experiment and see how the least well off faired in Atlanta. Students and many teachers (those not indicted) were coerced by school leaders who were empowered by their positions in such a way that they could systematically foster widespread deceptions, misrepresentations of student learning, and misallocation of resources. Take the perspectives of the teachers and students, it becomes clear they are largely voiceless and powerless, and being used for the advantage of others, instrumentalized. Teachers that spoke out were pressured by treats to livelihood, which lays bare the authoritarian and non-democratic nature of school administration hierarchies. The structures put in place by federal policy may have been unjust and put educators in an imposable position. But in Atlanta they adapted to an unjust system in a way that created more injustice.

Nevertheless, educators in many places do feel they are in an impossible position, so there are very real questions about the best ways to deal with and resist a standardized testing industrial complex that has grown and continues to invade educational institutions at all levels. As I discuss in the next section, walkouts have been staged, including students, parents, and
teachers. These are very important and have had some impact. The question is whether or not it will become large or disruptive enough to change the course of large-scale reform efforts, such as the Common Core.

However, before moving on, let me note that I have yet to see a strategy of resistance that involved the widespread manipulation of testing data in ways that didn’t involve cheating. Such a protest could not be self-serving like in Atlanta, and would have to be more broadly disruptive. For example, imagine coordinated mass-failures across multiple-school systems. If enough students decided to simply sit down on test day and fail, it would plummet all schools below the standards. Even if only a small percentage of students did it from each school, it could still potentially render all the data unreliable, effectively disabling the use of the test as a “sorting mechanism.” Without knowing who was taking the test seriously and who was not, it would be harder to simply throw out the data from the protesters. Depending on how it was organized, it might even be difficult or impossible to find out which kids were involved. So this is different from a walk out; this is more like sabotage. It is not cheating, because no one seeks personal gain or to improve score through deception. Doing it enough could make maintaining the system too much of burden and force the conversations that need to happen. The point of this reflection is simply to look in the direction of adaptations to injustice that do not involve the creation of more injustice. It is these forms of activism that I discuss next.

Civil disobedience and the new uprising against standardized testing

Aside from those who are simply cheating, other teachers and administrators are disobeying the dictates of federal polices. Their actions are often argued to be illegal and they take them under great risk to their reputations and livelihoods. Students, parents, and teachers are
building a wide variety of organizations focused on opt-outing out of and otherwise subverting high-stakes testing. They all claim to be responding to a shared sense of injustice. But considering the reactions from departments of education and many mainstream (corporate backed) reform groups, it appears the question still needs to be answered: are these activist involved in resisting unjust practices, or in perpetrating them?

The now somewhat famous example of Garfield High in Seattle can serve as a case in point. Here a group of teachers organized a collective action against a state mandated standardized test, the MAP, a product of the Northwest Evaluation Association (NWEA), which was going to be used in a high-stakes manner to evaluate teachers and schools. The teachers at Garfield High, in collaboration with many parents and students, successfully boycotted the test and their actions resulted in the test not being administered the following year as well. Early on teachers produced a letter in which they summarized their reasons for not wishing to administer the test, which included the following (see Hagopian, 2014 p. 37): 1) the test is not valid for its intended use at the level of the school because the margin of error is higher than expected gains; 2) the test is not aligned with the curriculum; 3) the test disadvantages those enrolled in special education; 4) the test will be used to evaluate teachers, which the test maker (NWEA) explicitly says should not be done, and; 5) the administrator who brought the test to the school district was serving on the board of NWEA, which gained 4 million from landing the contract.

All these claims are well substantiated, and reason enough to “scrap the MAP.” But note that they do not go so far as to expose the injustice of a social institution that would have such a demonstrably inappropriate test forcibly administered against the considered judgments of those most impacted by it, teachers and students. Deepening the arguments against testing to address more foundational issues of social justice is the goal of this paper. In other reflections on their
actions Garfield High teachers did raise themes of civil rights and social justice, and certain links between justice and testing were articulated, so it is interesting that in this official letter there is no mention. There is often no room for explicit discussions of social justice in the context of bureaucratic roles and political dealings, so this is not a criticism of the letter, but rather an observation on the absence of social justice as an allowable argument in certain institutional and discursive enclaves. This is a point to which I will return below when I discuss the use of Rawlsian thought experiments in facilitating public discussion about issues of social justice.

Needless, to say the letter and the actions that followed were not warmly received by school administrators and the state department of education. The teachers at Garfield high were threatened with a wide range of punishments, including revoking of their teaching licenses and some legal actions. Nevertheless, the community of teachers, parents, and students prevailed. They also sparked a series of other actions of organized resistance against testing. Around the US, from Portland to Chicago, New York to Florida, groups were protesting and opting-out. Push back has been strong, and accusations that these “anti-testing quacks” are in the wrong abound. In Chicago, where a swath of schools were involved in resistance, the department of education hammered down on low income schools that resisted, hiring special security, and isolating students that opted out in rooms where they were denied breakfast and not allowed to even read quality; they were forced to do nothing for the time they would have been taking the test. Meanwhile, an upper-middle class Montessori school on the other side of town op-ed out, and received none of this overtly coercive treatment. Instead, lawyers representing the city began pulling grade school students out of class without parental permission in order to gain evidence to bring a lawsuit against certain teachers (Hagopian, 2014). In all cases, organized forms of resistance to testing have been received by authorities as undermining educational achievement.
and as disruptive violations of the law.

But look at these movements from behind the veil of ignorance. In the case of Garfield High, you have a situation where several large social groups (students and teacher) are radically disempowered and subject to the dictates of an irrational measurement regime. Knowing what we know about the MAP, how could anyone agree to its proposed institutionalization from behind the veil? No reasonable person would ever choose to potentially be put in the position of those students and teachers. This would mean consenting to being subjugated, and rendering your professional judgment irrelevant, and learning secondary. The proposed use of the MAP is simply unacceptable given the decisions-making constraints that structure the original position. Therefore, in this situation the ethical thing to do is to raise the voices of the voiceless and aid the re-assertion of autonomy and professional judgment on the part of teachers. The position of the least well off is advanced by including them in the organized resistance to testing. Those in power are forced to confront realities that they do not typically deal with. As one student wrote about involvement with an anti-testing protest, “[my actions] forced administrators and politicians to put themselves in student’s shoes.” This is exactly the kind of social role taking that is facilitated by Rawlsian thought experiments about testing.

*The original position as guided group learning praxis*

I want to conclude by grounding the discussion even further in teaching and learning praxis. While the Rawlsian framework can be useful in discussing testing in the abstract, as shown above where I cover the two examples of cheating and resistance, it is also useful in dealing with the concrete realities of particular schools, classroom, and testing regimes. As Rawls intended, the original position can be used as a process of self-clarification and public reckoning. Here I suggest one way to operationalize this idea. I draw on the tradition of transformative edu-
cation, including Mezirow (1990) and Freire (1990 [1969]), in suggesting the use of Rawls’s thought experiment as a learning activity for facilitating perspective taking and gaining clarity and articulateness about social justice and testing.

The idea is quite simple. Use the original position as a way to structure a group learning activity. There are many ways to do this, of course. What I offer here is not a lesson plan, or even a complete learning activity. My goal here is only to introduce the idea and give one example of how I have implemented it when working with groups of students, or with groups of parents or teachers who have an interest in testing. I arrange a time to do a structured learning activity, which is broadly as follows:

• Ask each person to make a list of all the social roles involved in the standardized testing practices they participate in. This is not a list of individuals, like e.g., Mrs. Fox, but social roles, like teacher, students, parent, etc.

• Gather these roles on the board and collectively decide upon a definitive list of no more than six. Discuss those that should be included and why, focusing on the most centrally impacted (e.g., text book publishers are impacted, but not nearly as much as principals).

• Then offer this prompt (or one quite like it): “Imagine that you are going to be assuming one of those roles, but you don’t know which. What do you think it is like to be in each of these roles in our schools? Can you offer a sentence or two that summarizes what it is like to be in each role?

• Go around the group and work each role over, giving each person a chance to give voice to each role (especially, and often beginning with the role they occupy).

Discuss which social role is most desirable and which is least, and why. Discuss
who has power and who does not, etc. (this discussion can be deepened in many directions, and often is enough to make the activity worthwhile).

• Then offer another prompt: what would need to change for every social role to become an acceptable position to occupy? Can you think of three basic reforms that would result in a situation where even the worst possible position is acceptable?

• Go around and collect the reform proposals, and work with the group to build a master list of 5 to 10 justice-oriented testing reforms (Stein, 2104).

From here the activity can be taken in any number of directions and teachers, facilitators, and activists should use their discretion in deepening and extending the activity. I typically tailor on the fly to the sophistication of the group. With teachers I often go directly to Rawls to frame things in terms of civil rights; with students, I create a kind of imagination exercise and simplify the task into parts, but also eventual clarify the idea of justice and rights. The activity could be scaled up for use with large groups such as teachers unions, parent-teacher associations, or even town-hall style meetings. Or it could be scaled down to a reflective activity done by individuals who seek to clarify their own personal ethical obligations.

In all cases the goal is to facilitate what the great moral psychologist Lawrence Kohlberg (1984) once called, playing moral musical chairs. He wrote this with reference to G.H. Mead’s conception of post-conventional moral consciousness, where the individual has a capacity to move from perspective to perspective, going around to each individual in turn, feeling into the perspectives of all the parties impacted by their actions. This perspective taking capacity involves holding the complexity of all the voices of those most implicated by what you do. It is no
coincidence this is similar to “the moral point” of view discussed above in the context of Rawls’s methods, as Kohlberg drew heavily on Rawls in formulating his ideas about post-conventional morality. With the help of skilled teacher or facilitator, Rawlsian thought experiments help groups to take up this moral point of view, and to play this game of moral musical chairs; it scaffolds groups toward feeling into *the view from everywhere*. This gives us new clarity and vision about where we are in the struggle and what it must be like to be elsewhere, even on “the other side.”

Aside from self-clarification, the goal of the Rawlsian group process is also to give some structure and ground to discussions of social justice in contexts where it might otherwise be seen as inappropriate, vague, or unhelpful. What is social justice? There is no shared answer to this question that can be assumed in public discussion. This activity can help to frame public discussion and clarify the idea of justice as fairness. This is only a modest proposal for a philosophically inspired intervention into the new politics of standardized testing. My hope is that that it aids those looking to deepen discussions and engagement with social justice in schools.
Sources:


