

Rawls and Social Value in Research

In “The Social Value Requirement in Research: From the Transactional to the Basic Structure Model of Stakeholder Obligations” (November-December 2018), Danielle Wenner presents an alternative approach to ground the social value requirement in clinical research. Wenner contrasts her alternative, the “basic structure model,” with what she describes as the “transactional model.” As she contends, the transactional model “has largely permeated the research ethics literature” (p. 26) but never provided a solid foundation for the social value requirement. While the transactional model is grounded in normative relationships between transacting parties, the basic structure model is based on an understanding of social value obligations as demands that arise from Rawlsian social justice. According to Wenner, “The requirement is justified because it ensures that biomedical progress occurs in a manner constrained by considerations of justice” (p. 29).

Wenner’s article is groundbreaking in that it fills an important gap in the literature on the justification of the social value requirement. The transactional model has for all too long engendered insuperable conceptual problems for its defenders. However, I do not think that a Rawlsian basic structure model can accomplish the conceptual work she wants.

Although Wenner refrains from a univocal interpretation of “basic structure,” she refers to a Rawlsian interpretation in which, she says, the social value requirement is founded in “major social institutions [that] distribute fundamental rights and duties and determine the division of advantages from social cooperation” (p. 29, quoting Rawls). The problem with a Rawlsian stance stems from the fact that, in international health research,

transnationally operating sponsoring agencies and sometimes investigators are external to the Rawlsian basic structure of a host country. As Wenner herself has argued elsewhere (in the journals *Developing World Bioethics* and *Bioethics*), the social value in international health research is owed to host communities—to the basic structure in which research is conducted. But taking Rawls seriously, sponsoring agencies and investigators belong to the basic structure of their own, often high-income, countries and not to the basic structure of a foreign host country. In *The Law of Peoples*, Rawls outlines an international basic structure. Rawls asserts that peoples (or nations) are free and independent and should be respected by other peoples, that they ought to observe treaties and the mutually accepted rules of their “undertakings,” and that they are equal parties to the agreements that bind them. This description, with its emphasis on mutual respect, resembles the transactional model of the social value requirement.

To make a basic structure argument salient, one would need to show that sponsors, researchers, research participants, and community members together build a social scheme in which they participate qua members, subject to a shared system of societal rules, social cooperation, institutions, a common constitution, and law (as Rawls discusses in *A Theory of Justice*).

The objection to the basic structure account is therefore that researchers, sponsoring agencies, and research subjects as well as members of host countries do not belong to a shared basic structure of social justice. Agents belonging to different domestic basic structures are bound to comply only with the social justice demands of their home institutions. As Alex John

London argued in a 2005 article in this journal, an ethical model for international health research cannot be rooted in preexisting normative relationships between sponsoring agencies and researchers with communities. Thus, the demands of justice that Wenner considers to be regulatory for research and the social value requirement do not apply to the transnational sphere of health research.

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Danielle M. Wenner replies: I thank Felicitas Holzer for her thoughtful comments; however, I disagree that the basic structure model cannot account for the prevalence of transnational research. In fact, a strong case can be made that the research enterprise constitutes a basic structure that is international in scope. On the account of the basic structure model I’ve defended, claims of justice get their force from the fact that shared institutions condition the life chances of those who are subjected to them without their consent. Given this, the scope of the research basic structure will depend on the extent to which clinical research functions to condition both the life chances of those in foreign contexts as well as their abilities to engage in free and fair interactions. A systematic approach to assessing these impacts would suggest they are quite significant. Consider, for one example, the role of multinational pharmaceutical companies and non-governmental organizations in driving the direction of biomedical progress via both funding decisions and political activities. Future work must consider the implications of a global research basic structure for the obligations of policymakers, priority setters, and research stakeholders.

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