

7

“But I Voted for Him for Other Reasons!”

Moral Permissibility and the Doctrine of Double Endorsement

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We are told that Confederate memorials should be decommissioned because some black people, in particular, equate them with racism, and racism makes them upset (understandably), and therefore the offending symbols have no place in our public spaces. . . . Tens of millions of patriotic Americans honor the South. The vast majority of Americans, moreover, equate Confederate memorials, and the Confederate flag, with Southern pride, not racism.

Nicholas Waddy, “In Defense of Robert E. Lee.”¹

The sweeping argument against voting for [Roy] Moore (or Trump) rests on the mistaken view that in voting one is expressing one’s faith or moral convictions in their totality—identifying oneself with everything about a candidate. But a vote is not an expression of agreement with everything about a candidate or a candidate’s views. . . . Thus there’s no shame in voting for someone with whom you disagree, no matter how significant the disagreement, as long as you do so for the right reasons.

Tully Borland, “Why Alabamians Should Vote for Roy Moore.”²

¹ See <http://dailycaller.com/2017/08/16/in-defense-of-robert-e-lee/>.

² See <http://thefederalist.com/2017/11/30/alabamians-vote-roy-moore/>.

1. Introduction

It is widely assumed that you can meaningfully separate the good and bad characteristics of a symbol, person, activity, or work of art, and can permissibly choose to support the good features while denouncing the bad features. Such appeals are often offered as a justification for (or an attempt to deflect blame away from) one's support of something that is morally troubling. For example, as Nicholas Waddy notes in the epigraph above, someone who supports leaving Confederate monuments in place might distance themselves from the racism and dehumanizing violence of slavery while instead valorizing Southern pride. Voters frequently pick a candidate because they strongly support one of the candidate's policies or positions even though they disagree with another of the candidate's other positions. A fan of American football might enjoy the athleticism, momentum, and skill of the game while denouncing the traumatic brain injuries faced by many players. And many of us enjoy jamming out to a song in virtue of its great beat but despite its sexist lyrics, or watching *Crimes and Misdemeanors* for its bleak existentialist vision and cynical humor while condemning the alleged crimes and misdemeanors of the film's director and star.

My goal in this chapter is to refine and assess this kind of commonsense moral justification for supporting problematic people, projects, and political symbols. Although such justifications are frequently offered both in private and public conversations, there has been little explicit philosophical attention paid to this topic. What presumptions about moral responsibility for our endorsements underlie such appeals? Are these presumptions plausible, or generalizable? If we are to know how to properly assign moral responsibility to ourselves and others, we must ask whether and when we can meaningfully separate the good and bad features of these things, and non-culpably endorse the good aspects of them while distancing ourselves from the bad.

To answer these questions, I propose an analogue of the Doctrine of Double Effect (or DDE) that applies not to our intentions leading to actions, but to our attitudes and endorsements. DDE states that "*it is sometimes permissible to bring about as a foreseen but unintended side-effect of one's action some harm it would have been impermissible to aim at as a means or as an end, all else being equal*" (FitzPatrick 2012: 83; emphasis in the original). I argue that when certain conditions are met, it is morally permissible to directly endorse some object (such as a symbol, person, or artwork) in virtue of its morally positive (or aesthetically positive and morally neutral)

properties while standing against its morally negative properties—even though it would be morally impermissible to directly endorse those negative properties themselves.³ I call this the *Doctrine of Double Endorsement*, or DDN for short.

I am not attempting to offer a positive argument for the claim that we can permissibly endorse something's positive features while standing against its negative ones. Rather, I take this claim—which is widely appealed to by ordinary folk, yet which remains under-theorized—as a starting point, and assess whether it can be justified or if such appeals will always be misguided or hypocritical. My goal is to develop a plausible version of the claim, and I defend a list of necessary (although perhaps not sufficient) conditions that must be met for a permissible endorsement to occur.

In Section 2, I offer an account of endorsement. In Section 3, I outline three constraints on when DDN applies: (1) separability: the good and bad features must not be inextricably linked; (2) proportionality: the positive value of the good features must be significantly greater than the negative value of the bad features; and (3) constrained choice: there must not be other things that the agent could endorse instead that share the same positive features but are not saddled with the negative ones. I apply these criteria to a variety of cases, and conclude with a summary of which cases are subject to DDN justifications.

2. An Account of Endorsement

To endorse something is to support it or otherwise stand with it in a way that affirms that you value the endorsed thing. Because talk of endorsement in the philosophical literature is often connected to theories of autonomy (e.g., whether one must endorse one's actions in order to act autonomously, and what such reflective endorsement consists in), I want to clarify that I am not addressing endorsement in this sense, and I will not be analyzing reflexive endorsements of our own actions. Rather, I am trying to capture the intuitive notion of supporting, affirming, or identifying with something outside of yourself.

³ To directly endorse X is for the primary object of your endorsement to be X. DDN claims that direct endorsement of some object X (say, a film) because of X's good feature Y (say, its humor) can sometimes be permissible, even though X also contains bad feature Z (say, racist tropes) and direct endorsement of Z is impermissible.

2.1 What Are Endorsements?

What endorsing something involves will depend on the kind of thing it is and the ways in which we typically interact with that thing. Because we generally watch movies and TV to be entertained (or to appreciate art, or to expand our horizons, etc.) an endorsement of a movie or show will involve watching it for the sake of enjoyment (or art appreciation, or horizon-expansion, etc.). Because we vote for politicians to carry out the policies that we think are best, an endorsement of a politician will involve supporting their policies. At a minimum, endorsing requires only a pro-attitude, which can be conveyed in many ways. Re-tweets and Facebook “likes” are often paradigmatic examples of endorsement, since they are public proclamations that you stand with something. Another common form of endorsement is displaying symbols on your person or property (e.g., wearing a campaign button or putting a bumper sticker on your car). Endorsements are sometimes private—e.g., seeing news of protests and wishing for them to succeed—and sometimes publicly expressed or shared—e.g., driving past a protest and honking to signal your support of it.

Endorsements vary in strength. Generally, more public and more permanent symbols signal stronger endorsement: someone who gets a “Feel the Bern” tattoo endorses Bernie Sanders for US president in a more robust way than does someone who pins a button to their jacket, while someone who flies a “Make America Great Again” flag in front of their home endorses Donald Trump’s candidacy in a stronger way than does someone who hangs a Trump poster on their bedroom wall. Fundamentally, endorsements depend not on what actions an agent performs, but on the agent’s mental state. This means that it will not always be clear to an outside observer whether an endorsement has actually occurred.

Not every form of engagement with an object counts as a holistic endorsement of it. One might interact with an object ironically or jokingly without genuinely standing behind it; a group of friends who watch a cheesy old movie in order to riff on it *à la Mystery Science Theatre 3000* do not thereby endorse the film they watch. Or one might interact with an object without freely choosing to do so, as does the student who watches *Birth of a Nation* because it is required for their film history class. Because endorsements signal our values, an interaction counts as an endorsement only if it is chosen. It is also possible to endorse something in a qualified way, *qua* a particular type of thing—for example, to view the Nazi film *Triumph of the*

Will and consider it an excellent example of political propaganda without supporting it as a work of art, or to endorse George H. W. Bush qua fashion icon for his colorful socks without supporting him as a politician or a person.⁴

2.2 What Kind of Endorsements are Subject to DDN?

Endorsements can be complete or partial. Complete endorsement involves fully supporting every feature of the thing in question. DDN justifications apply only to partial endorsements, in which the agent stands with the endorsed thing in light of some of its features, but is opposed to it in light of others. The stance of the partially endorsing agent who is subject to a DDN justification must not be unitary: while they have decided all-things-considered to watch a film, support a monument, or vote for a politician, they must not be fully wholehearted in their support.

Fundamentally, DDN is used to assess cases of *mere endorsement*, in which taking or refraining from taking a pro-attitude towards something will not have any serious consequences. In many cases, endorsing X leads to good or bad outcomes that can be directly assessed in their own right. Buying *The Cosby Show* on DVD puts money in the pocket of a sexual abuser through residual payments; wearing a t-shirt with a Confederate flag on it in a predominately black neighborhood makes those who encounter you feel hurt, offended, or scared. In assessing whether it is ethical to purchase the DVD or wear the shirt, we should take considerations like these into account. If the consequences of an endorsement are obvious and are serious enough, they alone will determine whether it is permissible.

However, there are other cases in which the consequences of an endorsement are extremely minor, or in which there are no effects at all. In these cases, we must appeal to DDN. For example, consider watching a film produced by Harvey Weinstein using a streaming service that pays distributors a flat licensing fee regardless of how many users stream the content, meaning that Weinstein receives no additional money. Or consider someone who joins an already very large protest or adds another signature to a

⁴ See <https://www.npr.org/2018/12/01/672548335/president-george-h-w-bushs-choice-of-bold-whimsical-socks-made-him-a-style-icon>.

petition that already has over two million signatures.⁵ Even voting can be a form of mere endorsement, as someone who knows that their vote will not affect the election results or influence the elected official's mandate to govern might vote simply to signal support of a candidate.⁶ (Those who are skeptical that most acts of voting are merely expressive can grant that at least some are: consider the California resident in line for the polls at 7:30 pm Pacific time who learns that a national election has already been called, but nevertheless casts a vote for their preferred candidate to signal their ongoing support.)

Cases like these are mere endorsements, and DDN can help us figure out whether they are permissible. To clarify, I am not claiming that the things endorsed in DDN cases are not morally bad, or that they never have serious negative consequences. Rather, I am highlighting how DDN offers a tool for analyzing cases in which a particular act of endorsement does not contribute to these harmful effects.

2.3 Moral Responsibility for Endorsement

When do X's bad features outweigh or become so intertwined with X's good features that it is no longer permissible to stand with X, all-things-considered? To begin to answer this question, we need a general account of moral responsibility for endorsements. Endorsements reflect what we value: we stand with the things that we admire or care about. In many cases, these things are morally neutral, and a wide range of endorsements is permissible. I might endorse watching *The Great British Bake-Off* while you prefer to watch *Chopped*; on the assumption that both shows are morally permissible, neither of us is subject to moral praise or blame in virtue of our endorsement.

In other cases, the mere act of endorsing can itself be good or bad, regardless of the particular thing endorsed. For example, rooting for a favored contestant to win a (morally neutral) reality competition show can be valuable because it gives the show more significance and interest for you, regardless of which particular (non-villainous) contestant you choose to

⁵ I'm presuming that these actions do not have any obvious effects on the outcomes: that the protest would be equally powerful without an additional protestor, and that the petition already has enough signatures that one more won't matter.

⁶ See Brennan and Lomasky (1993) for an account of voting as a form of expressing oneself, and signaling or demonstrating commitment to certain political identities or causes.

endorse. At other times, this is pernicious; *ceteris paribus*, rooting for any particular dog to win in a fight is blameworthy because dog-fighting is morally abhorrent.

In the cases that I am most concerned with, the things we endorse have obvious good or bad features that make our endorsements of them a reflection of our moral priorities and characters. In general, we can be blamed for valuing or aligning ourselves with morally bad things (or bad features of things), and praised for valuing or aligning ourselves with morally good things (or good features of things). We can also be blamed for failing to properly condemn salient bad things; feeling neutral rather than outraged when you hear a report of child slave labor being used in a factory is morally troubling. We may also in some cases be blameworthy for failing to properly value salient good things; it is not appropriate to feel neutral toward (rather than admiring of) the heroism of the person who rushes into a burning building to save a stranger's baby. It follows that endorsement of a good thing (or non-endorsement of a salient bad thing) is praiseworthy, while endorsement of a bad thing (or non-endorsement of a salient good thing) is blameworthy.

In simple cases, moral assessment of an endorsement bottoms out in moral assessment of the things we endorse: dog-fighting is morally wrong, and so it follows that endorsing a particular dog in the fight is wrong. *RuPaul's Drag Race* is morally and aesthetically praiseworthy, and therefore so is endorsing the show and rooting for Asia O'Hara to win. However, DDN justifications are not needed in simple cases in which it is easy to make a holistic judgment about whether the endorsed thing in question is valuable. Rather, DDN is relevant for mixed cases, in which features A and B of X are valuable, while features C and D are disvaluable. The core philosophical question is about whether and when endorsing X on the basis of features A and B *thereby* makes you culpable for an endorsement of C and D as well.

3. Constraints on DDN

My main task in the rest of this paper is to describe the three constraints that any endorsement must meet if DDN is to justify it: separability, proportionality, and constrained choice.

First, though, a clarification about the agent's attitudes is in order. The agent must be supporting the endorsed entity because of its positive features, and must be in some way opposed to or otherwise standing against its

obvious negative features. DDN will not morally justify the endorsements of agents who remain neutral about the negative features of the things they endorse; complacency about the negative features of something cannot be mitigated by endorsement of (what you take to be) its positive features. This is analogous to Michael Walzer's revised version of DDE, which states that it is not enough to simply refrain from intending the bad effect, and requires that the agent intend both "that the 'good' be achieved" and "that the foreseeable evil be reduced as far as possible," even at the cost of accepting minor risks of harm to oneself (1977: 155).

Nor will DDN work as a justification for agents who are culpably ignorant of the negative features of the things they endorse. (Agents who are non-culpably ignorant of the negative features of the thing they endorse will not need to appeal to a DDN justification, because they will be straightforwardly exculpated from blame in virtue of their non-culpable ignorance.⁷) I cannot here offer a comprehensive account of when ignorance is culpable, but we have a rough sense of what culpable ignorance looks like—for example, ignorance about important and relevant topics that is motivated by wishful thinking, laziness, or apathy. To endorse something is to value it in a certain way, and it is morally careless to value something if you have not thoroughly enough investigated the extent to which it is in fact valuable.

Ignorance is in some cases more than just careless: white supporters of Confederate monuments who remain unaware of their racist history (again, in spite of much popular discussion of this topic) are likely engaging in what Gail Pohlhaus, Jr. calls *willful hermeneutical ignorance*, in which "dominantly situated knowers refuse to acknowledge epistemic tools developed from the experienced world of those situated marginally" in a way that enables them to misinterpret or ignore important features of the world (2012: 715).⁸ They are blameworthy for remaining willfully ignorant of the monument's racist symbolism in a self-motivated way that enables them to avoid grappling with their region's difficult history and present struggle for racial justice. The person who publicly endorses a problematic thing must also do their best to ensure that the endorsement is not misconstrued by those they interact with as an endorsement of the negative features of the thing.

⁷ For arguments that non-culpable ignorance of your actions excuses you from moral responsibility, see Ginet (2000) and Mele (2011).

⁸ See also Collins (2000), Mills (2007), and Medina (2013).

Now that we have an understanding of what sorts of attitudes agents must take toward the positive and negative features of the things they endorse, we can turn to the further constraints that permissible endorsements must meet.

3.1 Separability

A common objection to the Doctrine of Double Effect is the “closeness” worry, or the concern that the intention/foresight distinction is unclear or can be arbitrarily drawn, leading DDE to morally license practically any behavior. As Dana Nelkin and Samuel Rickless put it in an article arguing that the closeness problem is intractable, “the problem is that an agent’s intention can always be identified in such a fine-grained way as to eliminate an intention to harm from almost any situation, including those that have been taken to be paradigmatic instances in which DDE applies to intended harm” (2015: 377).⁹ Since DDE is not the focus of this paper, I do not have to adjudicate whether the closeness problem is an insurmountable objection to it. But is there an analogue of the closeness worry for DDN? Not in all cases, for the positive and negative features of a thing (call them “P” and “N” for short) are often easily distinguishable, and we can draw a sharp line between them. However, there are cases in which this is not true, and in which P and N are inextricably intertwined or inseparably bound up with each other. In these instances, P and N are indeed too close: an endorsement of P cannot meaningfully be distinguished from an endorsement of N, and DDN will not apply. Call this the *separability* constraint.

Because they exist in the same object, there is a sense in which the positive and negative features of a thing are always inseparable. I have in mind something more substantive than this: P and N are separable if and only if the shared social meaning of P does not include N. This goes beyond P and N contingently co-existing in the same person or object. Rather, X is part of the shared social meaning of Y if most folks in a society routinely and strongly associate X with Y, such that the social significance of one cannot be fully understood without the other. This could be for a variety of reasons. Perhaps X and Y are strongly culturally connected to each other; think of how pink or blue clothing on infants is generally taken to signal that the baby is a girl or

⁹ See also Foot (1978), Anscombe (1981), and Bennett (1995).

boy. Or maybe it is widely known that X currently is or historically was used to support or enable Y. For example, consider how the swastika—originally a widespread and morally innocuous symbol of good fortune stemming from Buddhist, Hindu, and Jain religious iconography—was used to stand for Nazism and is currently deployed by anti-Semites and neo-Nazis.¹⁰

The shared social meaning of a word, symbol, or concept can vary across cultures (or even sub-cultures), although it is never a matter of idiosyncratic individual preference. Adorning a building with a swastika in East Asia has a very different social meaning than does adorning a building with a swastika in Europe or North America. This is so even if the person using the symbol intends it to be used in the religious sense; a Buddhist temple in contemporary Berlin or New York City that decorates their building with swastikas conveys the Nazi meaning rather than (or perhaps in addition to) the good fortune meaning. We do not always get to decide for ourselves what our symbols mean if our society assigns a contrary meaning to them.

Confederate monuments offer a good illustration of inseparability.¹¹ Assume for the sake of argument that these monuments have positive features that are indeed worthy of endorsement, including the symbolic representation of the American South's valiant attempt to preserve state sovereignty against outside coercive forces. Historically, though, antebellum Southern states struggled to maintain sovereignty *so that they could uphold slavery*. And many Americans (especially black Americans) see this as part of the social meaning of Confederate monuments. Moreover, most of the monuments were built during the Jim Crow era or during anti-civil rights backlash, and were explicitly aimed at upholding white supremacy.¹² States' rights are valuable in general, but a state's right to legalize the ownership and violent oppression of black people (or to push back against their ongoing

¹⁰ Social meanings do not just depend on historical connections. They also depend on the extent to which people are presently aware of this history. For example, the auto-maker Volkswagen was originally founded by Hitler. But because this is not very widely known, and because present-day Volkswagen has no affiliation with Nazism, the social meaning of the company does not include anything about Hitler.

¹¹ I focus on an individual's support of a Confederate monument as a mere endorsement, assuming this support does not determine whether the monument remains standing. As Timmerman (2019) argues, Confederate monuments lead to serious harm to those who are aware of their racist origins and/or are reminded of a terrible time in US history by their presence, and should be removed for that reason. My concern is with moral assessment of individuals who endorse such monuments when their endorsements have no impact on whether the monument remains standing and harms others.

¹² See <https://www.vox.com/identities/2017/8/16/16151252/confederate-statues-white-supremacists>.

struggle for liberation) is not. The social meaning of the P feature of the monument (state sovereignty) is inextricably historically and culturally connected to the N feature (state-sponsored racism and oppression). An endorsement of a Confederate monument qua symbol of Southern state sovereignty cannot be conceptually distanced from an endorsement of the monument qua symbol of the South's employing that sovereignty to uphold slavery and white supremacy.¹³

While there may be people who sincerely intend the Confederate flag to stand merely for states' rights, they cannot unilaterally create a new shared social meaning for the flag. This does not mean that shared social meanings are immutable. For example, we might imagine a future in which the Confederate flag is reclaimed as a symbol by African Americans, perhaps in a way analogous to how the word 'queer' has been reclaimed by some in the LGBT+ community. If this occurred, the flag would no longer have an inseparable connection to white supremacy or racism, and endorsement of it would be permissible.¹⁴

Separability gives us a principled way to determine which monuments are irredeemably racist, and which have some racist connotations but are subject to DDN justifications. Consider the following tweet from Donald Trump, which attempts to argue that removal of Confederate monuments is a slippery slope leading to the removal of statues of any historical figure who was a slave owner:

Sad to see the history and culture of our great country being ripped apart with the removal of our beautiful statues and monuments. You... can't change history, but you can learn from it. Robert E Lee, Stonewall Jackson—who's next, Washington, Jefferson? So foolish! Also... the beauty that is being taken out of our cities, towns and parks will be greatly missed and never able to be comparably replaced!

(Donald J. Trump (@realDonaldTrump) August 17, 2017)¹⁵

¹³ Because they are government sponsored or sanctioned, Confederate monuments (as well as flags on government buildings) have a distinctive social meaning that is not shared by private display of similar flags or memorials: they signal a state's lack of equal respect for all citizens.

¹⁴ Percival Everett's short story "The Appropriation of Cultures" envisages this: the black protagonist decides to reclaim the Confederate flag as a symbol, and the flag becomes widely adopted as a symbol of black pride. As a result, it is stripped of its racist power, and is removed from the South Carolina statehouse (see Everett 2004). Thanks to Pierre Le Morvan for this reference.

¹⁵ Ellipses in the text represent where one tweet ends and the next one begins. See <https://twitter.com/realDonaldTrump/status/898169407213645824>.

There are positive reasons to endorse a statue of George Washington—he was a skillful general who led the American revolutionaries to victory, and he set a valuable democratic precedent of peacefully resigning from his position and refusing to remain in power. But Washington also owned many slaves. As president, he signed the first fugitive slave act, and he (unsuccessfully) pursued an escaped slave of his own for years.¹⁶ However, Washington’s good deeds can presumably be separated from his bad ones: for all we know, there is nothing about his generalship or his stepping down from office that entails, implies acceptance of, or is in the direct service of slavery. The social meaning of the two is—at least currently—not conceptually intertwined. The same is not true for Confederate monuments, which explains why one can permissibly endorse a statue of Washington but cannot permissibly endorse a Confederate monument in an ordinary setting (rather than, say, in a museum).¹⁷

Cases of inseparability also arise when assessing wonderful art made by people who do terrible things.¹⁸ Can the artist be meaningfully separated from the artwork, such that we can permissibly endorse the artwork without thereby supporting or standing behind the misdeeds of the artist? One way to answer this question is to assess whether the positive features of the artwork—say, the compelling storyline, or the humor, or the beautiful imagery—contain some implicit or explicit affirmation of the artist’s morally bad behavior. If so, the N features of the artwork are part of the shared social meaning of the P features of the artwork, and the artwork violates the separability constraint.

For example, consider the films of Woody Allen, a man who has been accused of the sexual abuse of his young adopted daughter, and who at age 57 began a sexual relationship with the 20-year-old adopted daughter of his current romantic partner. Most of Allen’s comedies do not condone such behavior. As Kathleen Stock puts it in a blog post, “arguably (with the possible exception of *Manhattan*, which I avoid discussing for the sake of

¹⁶ See <https://www.nytimes.com/2015/02/16/opinion/george-washington-slave-catcher.html>. Washington ultimately freed his slaves, but only after his death.

¹⁷ It would be permissible to endorse Confederate monuments as historical artifacts were they deliberately moved to a suitable setting, in the way that Soviet statues were moved to an outdoor museum (Szoborpark) on the outskirts of Budapest after the fall of Communism in Hungary; see <http://www.mementopark.hu/pages/conception/>.

¹⁸ For further discussion of this topic, see the responses from philosophers (originally compiled by *Daily Nous* and updated in *Aesthetics for Birds*) about whether we can separate the art from the artist: <https://aestheticsforbirds.com/2018/12/06/can-we-separate-the-art-from-the-artist/>.

not ruining my argument), there is no serious implication in any of [Allen's] films, intended to be believed by the viewer, that paedophilia is acceptable or in any way permissible. There is nothing about paedophilia whatsoever, in fact. Hence there is no genuine possibility of interpreting those films as inviting, via imagining, some endorsement of a counterfactual about it."¹⁹

If this is correct, then DDN will permit us to endorse, say, *Annie Hall* on the basis of its positive aesthetic features while disavowing the negative moral behavior of the film's star and creator. But this may not be true of all of Allen's work.²⁰ The reason *Manhattan* threatens to undermine Stock's argument is that it stars Allen playing a 42-year-old character (Isaac) who is dating a 17-year-old high schooler (Tracy). While it is possible for art to depict morally bad behavior without thereby condoning it, this does not seem to be what is happening in *Manhattan*: ultimately, the overall narrative of the film seems to stand behind this behavior.²¹ Because the central storyline mirrors Allen's history of engaging in inappropriate sexual relationships with much younger women,²² the social meaning of the film is too tightly bound up with Allen's behavior to be separated from it. The film appears to condone the sort of objectionable behavior that its auteur is condemnable for, and this condoning storyline is at the film's center. This

¹⁹ Stock (2017a). Stock is addressing what she calls the "puzzle of imaginative resistance," or how readers/viewers resist engaging in some (but not all) forms of counterfactual imagining in fiction. Stock is investigating the extent to which Allen's films seem to invite a counterfactual endorsement of pedophilia/ephebophilia. See also chapter 4 of Stock (2017b).

²⁰ My argument that separability is a constraint on DDN in no way depends on this particular analysis of *Manhattan*. I may be mistaken about the film's aesthetic or moral virtues; perhaps the film's core narrative is more morally nuanced than I make it out to be, and the good and bad features of *Manhattan* are in fact separable. If so, then endorsing *Manhattan* is permissible after all. This would show us not that the separability constraint is flawed, but that my understanding of *Manhattan* as a piece of art is flawed.

²¹ In the final scene, Isaac returns to Tracy after he has left her to (ultimately unsuccessfully) pursue a relationship with the intellectual Mary, realizing that he is most "relaxed" around Tracy and has the "nicest times" with her. Tracy is about to leave to study in London for six months, and Isaac asks her not to, stating "I just don't want that thing about you that I like to change." To me, this reads as an endorsement of their relationship, and of Tracy's youthful innocence as the primary valuable thing about her. However, there may be more sympathetic interpretations of this scene; for example, see <https://arcdigital.media/manhattan-revisited-fb2644239fd5>.

²² Mariel Hemingway (Allen's co-star in *Manhattan*, who was 16 when the film was made) has stated that Allen invited her to go to Paris with him when she was 18 in an attempt to seduce her; when she asked for separate bedrooms for the trip, he revoked the invitation; see <https://www.vanityfair.com/hollywood/2015/03/woody-allen-mariel-hemingway-manhattan>. Actress Christina Engelhardt has also recently gone public about her sexual relationship with Allen, which started in the 1970s when she was 16 (and under the legal age of consent); see <https://www.hollywoodreporter.com/features/woody-allens-secret-teen-lover-manhattan-muse-speaks-1169782>.

makes the shared social meaning of the storyline and the author's bad actions inseparable: it becomes nearly impossible to view the film without a vivid awareness of that behavior.²³

This is not to say that the film has no redeeming aesthetic features; the Gershwin soundtrack is lovely, and the banter about art is witty. And Allen's morally troubling behavior doesn't impact how beautiful and fitting the music is, or how funny the jokes about art interpretation are. So it would be permissible to endorse the soundtrack, or the scene in which Isaac and Mary (Isaac's best friend's mistress, with whom Isaac falls in love) are introduced to each other at an art exhibit. But full-stop endorsement of the film as a whole—with the condoning storyline as a central part of it—violates the separability constraint on DDN and is impermissible.

3.2 Proportionality

The traditional Doctrine of Double Effect is subject to a proportionality constraint; according to the *New Catholic Encyclopedia*, in DDE cases “the good effect must be sufficiently desirable to compensate for the allowing of the bad effect” (Connell 1967: 1021). A similar constraint applies to DDN: the positive features (P) must be good enough that they sufficiently compensate for the badness of the negative features (N). This has both a threshold component and a comparative component. First, N must rise above a minimum decency threshold, which means that N cannot be overwhelmingly bad. A novel or film that contains an explicit, vile, and non-ironically racist or sexist message is not worthy of endorsement, no matter how beautiful the prose is or how good the acting is. Second, we must make a comparative judgment between N and P: the good features must be significantly weightier than the bad features.

This comparative judgment will not usually involve a straightforward weighing using a single metric: it is not clear how we could weigh, say, the democratic value of George Washington's decision to peacefully step down from office against the moral horror of his owning slaves. Rather, the proportionality constraint on DDN is analogous to proportionality as

²³ Would DDN permit endorsement of *Manhattan* were it created by someone who had not engaged in Allen's alleged or admitted sexual misdeeds? The narrative of the film seems to condone Isaac's behavior independently of Allen's off-screen actions. We would have to assess whether this condoning narrative is itself separable from the P features of the film, as well as whether it passes the proportionality and constrained choice criteria discussed below.

understood by theories of criminal punishment. The harshness of a criminal sentence is not measurable against the badness of the crime on a single scale; the badness of an act of theft is not directly equivalent to the badness of six months in prison. Rather, proportionality demands that the levels of badness roughly match: minor crimes should receive minor punishments, while more serious crimes receive increasingly harsher punishments.

Similarly (although conversely), the proportionality constraint on DDN demands that the *worse* N is, the *better* P must be to outweigh it. Such assessments can be made without weighing N and P on a single scale. How exactly we engage in these assessments is a difficult question that I cannot fully address here. But I can offer a speculative suggestion. If P and N are incommensurable, we should independently assess P and N according to their own scales. Roughly how bad is N, assessed as the type of thing N is (e.g., an act of sexual harassment, or a reminder of racial oppression)? And how good is P, assessed as the type of thing P is (e.g., a comedic film, or a reminder of historical struggles for states' rights)? If P is very good—say, the funniest show you've ever seen—and N is not terribly bad—say, perpetuating a slightly offensive stereotype—then the object will pass the proportionality condition. If N is really awful, or if P isn't that great, then the object will not pass the proportionality constraint. For example, it would not be proportionate to endorse a candidate who pledges to attain the minor good of preserving local historic landmarks in spite of the candidate's terribly bad commitment to gutting the social safety net. But it might be proportionate to endorse a candidate who wants to slash social welfare programs if they are likely to accomplish the massive good of passing comprehensive gun control laws.

To illustrate, consider a voter in the 2016 US presidential election who condemns the fact that Donald Trump has bragged about committing sexual assault, and is likely to enact policies that are harmful to women, racial minorities, and refugees. However, she reluctantly votes for Trump anyway because she prioritizes ending political corruption over every other cause, and believes that Trump will “drain the swamp” as he has promised to. We can grant that swamp-draining is a morally valuable goal. But it is not so valuable that it outweighs the terrible characteristics of Trump's candidacy, including the racist, sexist, and xenophobic attitudes that are likely to be incorporated into harmful or discriminatory executive orders and policies; the hostility towards the media that seriously risks leading to a less free press; the abandoning of the normal standards of civic discourse that decreases opportunities for bipartisan progress, etc. The reluctant

single-issue voter cannot appeal to DDN to justify voting for Trump because the negative features that she disavows are so very bad that they swamp the positive feature that she stands behind. This is why the claim in the epigraph quotation about Roy Moore—that “there’s no shame in voting for someone with whom you disagree, no matter how significant the disagreement, as long as you do so for the right reasons”—is not true. If the disagreement is significant enough, even the “right reasons” cannot outweigh it. And what Roy Moore stands for is, presumably, so dreadful that it is not compensated for by any positive features of his candidacy.²⁴

Contrast this case with another voter, who reluctantly votes for Hillary Clinton in the same election. This voter endorses Clinton because of her support for universal health care, her plan to raise the minimum wage, and her political experience. But he stands against Clinton’s previous support for “three strikes” laws, her ties to corporate interests, and her lack of discretion in using a private email server. A DDN justification can apply in this case, because the positive features of Clinton’s campaign (arguably) outweigh the negatives: Clinton is far from a perfect candidate, but her good features outweigh the bad to a large enough extent that an endorsement of her is permissible, all-things-considered.

The proportionality constraint will not always be easy to apply in practice. For example, consider someone who endorses NFL football. Are the positive features of the game—the skill and athleticism, and the camaraderie that comes from being part of a dedicated fan base—good enough to compensate for the game’s negative features (brain injuries, exploitation of college athletes, silencing of players who engage in political protests during games, etc.)? Answering this requires addressing substantive questions about how valuable the game’s positive features are and how disvaluable the game’s negative features are, and we can expect there to be reasonable disagreement about this. But this is a feature of the proportionality constraint rather than a bug, as it explains why some debates about the permissibility of particular

²⁴ Among other things, Moore (1) was removed from his office as Chief Justice in 2003 for failing to follow a court order to remove a Ten Commandments statue from the Alabama Supreme Court (<http://www.cnn.com/2003/LAW/11/13/moore.tencommandments/>); (2) stated in 2005 that he thinks homosexual conduct should be illegal (<https://www.c-span.org/video/?c4682986/roy-moore-2005-bill-press>); (3) made a public speech claiming that America was last “great at the time when families were united—even though we had slavery—they cared for one another” (<http://www.latimes.com/politics/la-na-pol-alabama-senate-runoff-20170921-story.html>); and (4) has been credibly accused of seeking out sexual relationships with teenagers half his age and in some cases sexually harassing or assaulting them (<https://www.washingtonpost.com/news/politics/wp/2017/11/16/timeline-the-accusations-against-roy-moore/>).

endorsements are so entrenched. Whether an endorsement satisfies the proportionality constraint will depend on the truth about the respective value and disvalue of the positive and negative features of the endorsed thing. In some cases, the answer will be obvious; in others, it will not be.

3.3 Constrained Choice

The standard formulation of the Doctrine of Double Effect permits acting only under conditions of necessity, and demands that if one “could attain the good effect without the bad effect he should do so” (Connell 1967: 1021). A similar condition holds for DDN, which permits endorsement of X only when the agent is in a situation of *constrained choice*, in which there is no good option Y or Z that the agent could endorse instead that shares X’s P features but that doesn’t involve X’s N features. That is, endorsement of X is permissible only when there is no non-overly burdensome way to attain the benefits that P provides without endorsing something that includes N. The constraint is deliberately flexible about the degree of burdensomeness involved. If the negative features of something are extremely bad, the threshold for burdensomeness will be higher than in cases in which N is less bad.

Constrained choices arise most obviously in situations in which it is impossible to attain some essential good without serious drawbacks. In such cases, you are justified in endorsing the option that is less bad, even if it would be impermissible to endorse this option if you had better choices available to you.²⁵ For example, suppose you are choosing which packaged lunch to eat at a conference. Your lunch break is too short to order delivery or leave the venue. The lunches have already been purchased by the conference organizers, and because the event is not recurring, your choice will have no impact on what food is ordered in the future. Assume that all of the choices available to you have serious negative features: the meat options involve harm to animals, and the vegetables are picked by migrant laborers who are paid unfairly low wages. Because you need to eat lunch, and your

²⁵ Remember that the threshold proportionality constraint still holds: if your vote will have zero effect on the outcome, you shouldn’t endorse Very Evil Person A over Even More Evil Person B but should instead abstain from voting. If the endorsement is not “mere”—if you expect that your vote really might affect which of two evil people is elected, then it is morally permissible (and perhaps required) to vote for the less evil person for consequentialist reasons of harm minimization.

choices are constrained, you are justified in endorsing the less bad option—say, choosing unethically harvested salad instead of harmful and unsustainable beef, even if it would not be permissible to choose the salad were a harm-free option available to you.

It will not always be easy to determine whether the endorsing agent faces a constrained choice. Consider fans of American football. Are there activities they could endorse instead that do not involve brain injuries to players but that do involve athleticism and the camaraderie of a fan community? *Prima facie*, it might seem that there are: one could follow baseball instead, or find a supportive community among *Star Trek* fans. But the goods of various sports are not interchangeable; the skills and athleticism of football are different than those of baseball. And many football fans find special value in carrying on family traditions of supporting particular teams, which alternate fan communities will not help them to maintain. Whether a football fan is in a situation of constrained choice will depend on substantive questions about what the goods of football are and whether they can be achieved through other means.

We can ask similar questions about the endorsement of art that involves problematic content or is produced by problematic artists. Are there unique or distinctively valuable aesthetic goods in, say, the stand-up of Louis C.K. (who has admitted to non-consensually masturbating in front of women)²⁶ that cannot be attained through the stand-up routines of people who are not sexual harassers? I presume that the goods of individual works of art will not always be fungible: different comedians might offer distinctive aesthetic goods. But this will depend on what kind of good you're seeking. If you simply want to laugh, there are plenty of other funny stand-up specials that are not created by sexual offenders.

Contrast this with another use of Louis C.K.'s stand-up. Before C.K.'s sexual misconduct was public, I showed a clip from one of his routines in my ethics class to illustrate Peter Singer's arguments about famine relief. (C.K. says his life is "really evil" because he drives an Infiniti when he could trade in his car for a Honda and use the leftover money to feed starving children instead, concluding "every day, I make them die with my car.")²⁷ So far as I know, no other comedians have incisive and illuminating bits about how affluent people are morally responsible for failing to alleviate global poverty.

²⁶ See <https://www.nytimes.com/2017/11/09/arts/television/louis-ck-sexual-misconduct.html>.

²⁷ See Jason Brennan's take on the comparison here: <https://fee.org/articles/luxury-and-louis-cks-really-evil-life>.

If I wish to illustrate Singer's arguments through a comedy clip, there is no other way to do so. For the time being, I've decided to stop using the clip. But it seems that its use in an ethics course is subject to a DDN justification due to constrained choice (at least, so long as the clip is carefully framed so as to avoid giving the appearance of endorsing C.K.'s bad behavior).

Harder to assess is whether the proportionality constraint is met in cases of constrained choice, for we must also consider the moral value of the constrained choice itself: not every end is valuable enough to merit being attained only via endorsement of something with serious negative features. The athleticism of football is valuable, but is probably not worth the brain injuries players receive. This parallels how we must assess the moral permissibility of the end aimed at in a DDE case. Consider the tactical bomber who intends to destroy an enemy munitions factory while merely foreseeing that this will result in a number of civilian casualties. We must ask whether a tactical bomber should be bombing the munitions factory in the first place, in addition to assessing the permissibility of the act given his attitude toward the civilian casualties that will result.

Constrained choices might also intersect with separability. Using comedy to illustrate Singer is memorable, and it helps students let their guard down about a challenging topic. But at the height of the #MeToo movement—which criticizes the way in which men in positions of power engage in sexual harassment and assault with impunity—endorsing the work of a harasser has a distinctive social meaning that it might not have in another time or place. The sexual misdeeds of famous actors and comedians are extremely salient in this cultural moment. In this context, an endorsement of Louis C.K.'s clip risks violating the separability constraint: maybe the social meaning of engaging with C.K.'s work in any way after #MeToo involves a problematic ignoring of bad behavior by powerful men. Perhaps in a future in which harassers are routinely held accountable, this social meaning will shift, and a successful DDN justification will apply to use of the clip.

Limited entertainment options in a patriarchal society rife with sexist art might also lead to constrained choices for consumers, who may be unable to find an abundance of great movies, books, and songs that are free from problematic features. As Julie Bindel (2015) argues:

If feminists—especially those of us who prioritise the campaign to end male violence against women—restricted themselves to entertainment that was perfectly non-sexist, perfectly pure, we would be pretty miserable, and have very little to watch or listen to. . . . As a feminist, under the system of

patriarchy, to live a life without contradiction means I would have to wall myself off from the wider world of music, film and literature, something I'm not prepared to do.

Someone who enjoys the drama and vicarious thrills of crime procedural shows may not be able to find a series that does not occasionally depict violence against women in a sexualized or glorified manner. If so, a DDN justification can apply to watching these shows in virtue of their drama and despite their sexism—though we must also consider proportionality, and ask whether the end of enjoying crime procedural dramas is valuable enough to be worth pursuing despite this negative feature.

A final example of constrained choice involves the lack of representation of women of color in film. The “Bechdel test” (inspired by a cartoon by artist Alison Bechdel) proposes assessing gender representation in a film by ascertaining whether it involves two named women characters who talk to each other at some point during the film about something other than a man.²⁸ Some people criticized the 2013 film *Pacific Rim* because it failed the Bechdel test.²⁹ The movie—which is about fighting interdimensional monsters using co-piloted robots—features only one significant female character: Mako Mori, a skilled pilot who teams up with her adopted father to avenge her murdered family. Mako is a fully developed character with an interesting narrative that is central to a plot that is not primarily about romance.

Tumblr user spider-xan responded to criticism of *Pacific Rim* as follows:

It's really easy to throw away a film because of [the Bechdel] test... if you're a white woman and can easily find other films with white women who look like you and represent you... But as an East Asian woman, someone like Mako—a well-written Japanese woman who is informed by her culture without being solely defined by it, without being a racial stereotype, and gets to carry the film and have character development—almost NEVER comes along in mainstream Western media. And honestly—someone like her will probably not appear again for a very long time. So you'll understand why I can't throw her and the entire film

²⁸ The test is not meant to assess whether a movie counts as “feminist,” or to determine whether it is permissible to endorse a film all-things-considered (although it is sometimes used in this way). Rather, it is a marker of unequal gender representation in film, which can be used to assess one negative feature a film might possess (lack of broad representation of women). See https://en.wikipedia.org/wiki/Bechdel_test.

²⁹ For example, see <https://www.vulture.com/2013/07/does-pacific-rim-have-a-woman-problem.html>.

away as meaning nothing in terms of representation—because she’s all I really have right now.³⁰

The post inspired the “Mako Mori test,” which proposes assessing intersectional gender representation in a film by assessing whether there is: (1) at least one female character of color who (2) has her own narrative arc that (3) is not about supporting a man’s story.³¹ Under-representation of women of color in film leads to a situation of constrained choice. *Pacific Rim* has a negative feature: it fails the Bechdel test. But it also has an important positive feature: it passes the Mako Mori test. Because it is exceptionally difficult to find blockbuster Western films that pass both tests, DDN will justify an endorsement of *Pacific Rim*.

Contrast this with the “sexy lamp test,” coined by comics writer Kelly Sue DeConnick, who says “if you can remove a female character from your plot and replace her with a sexy lamp and your story still works, you’re a hack.”³² The test criticizes stories that treat female characters in such objectifying and underdeveloped ways that they could literally be replaced by inanimate objects. A film that fails the sexy lamp test may have other virtues: it may be entertaining, or feature beautiful cinematography, etc. Luckily, we are not in a situation of constrained choice with regard to films that fail the sexy lamp test. It is not overly burdensome to find films that are entertaining with great cinematography and that portray women in a way that gives them at least minimal agency, which means that such films are not subject to a DDN justification.

4. Conclusion

I have argued that it can be morally permissible to endorse something in virtue of its positive features while disavowing its negative ones, so long as the good and bad features are meaningfully separable, the bad does not disproportionately outweigh the good, and the agent is in a situation of constrained choice. The table summarizes these results as they apply to the examples I have discussed.

³⁰ See <http://spider-xan.tumblr.com/post/58305944138/also-i-was-thinking-more-about-why-white-women>.

³¹ See <https://www.dailydot.com/parsec/fandom/mako-mori-test-bechdel-pacific-rim/>.

³² DeConnick mentions the test in print here: <http://www.ign.com/articles/2013/06/20/kelly-sue-deconnick-talks-captain-marvel-pretty-deadly-and-the-sexy-lamp-test>.

Type of case	Successful DDN justification of:	Unsuccessful DDN justification of:	<i>The unsuccessful case involves failure of:</i>
Voting	Voting for Hillary Clinton in 2016	Voting for Donald Trump in 2016	Proportionality
Monuments	Admiring statues of George Washington	Admiring Confederate monuments/flags	Separability
Art	Watching <i>Annie Hall</i>	Watching <i>Manhattan</i>	Separability
	Using Louis C.K. to illustrate Singer (in some contexts)	Watching Louis C.K.'s standup special on Netflix	Constrained choice
Art	Watching movies that fail the "Bechdel test" but pass the "Mako Mori" test	Watching movies that fail the "sexy lamp test"	Constrained choice

The Doctrine of Double Endorsement refines the intuitive justifications of partial endorsements that are often made by pundits, politicians, and everyday folk, and gives us a principled way to distinguish when those endorsements are morally permissible. Ultimately, voting for a problematic candidate for "other reasons" can be morally permissible—but it is not in many of the cases in which people attempt to offer such justifications.³³

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160 ALIDA LIBERMAN

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