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### The slippery slope argument

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# The Slippery Slope Argument

*Govert den Hartogh*

## § 1. *An example*

Slippery slope arguments can be used in the context of any discussion whatsoever, but if you are asked to give an example, the odds are that the example which first comes to your mind will be one from a bioethical discussion. In such discussions the argument is standardly used, mostly in order to object against proposed changes in moral thinking or legislation. To give but one example, chosen almost at random:

Prenatal diagnostics is wrong in principle, if the only measure we can take in case a genetic defect is found is abortion. First a suspicion of Huntington's disease or cystic fibrosis will be counted as a good reason, then of diabetes, sickle cell anemia, Down's syndrome, then of a club-foot, a hare-lip, myopia, color blindness, an extra Y-chromosome, left-handedness, and finally of skin-color.

It will be argued that it is in the interest of the future child itself not to be born. But how can we decide that someone's life will not be worth living? People have no right to decide that the life of a handicapped person has no value, it is a violation of the basic principle of equality. If we allow ourselves any exceptions to that principle, handicapped people will come to be seen as the products of parental negligence, people will say to them "Why are you here? You should have been aborted". And if these people are consistent, they will in the end believe that the lives of these people should still, in their own interest, be terminated.<sup>1</sup>

## § 2. *The paradigmatic form of the argument*

The term "slippery slope argument" is often used loosely; one may find the appeal to a dangerous precedent (§ 3) called by that name, and all kinds of arguments pointing to negative consequences of a proposed action, especially, but by no means exclusively, when the causal chain leading to these consequences consists of several links. If one tried to give a definition covering present usage, one would not come up with any distinctive argument form meriting a separate discussion. Instead I will present a characterisation of what I take to be the paradigmatic form of the argument, noting by the way some possible deviations of this standard form, but without bothering to decide which of these deviations should and which shouldn't be called slippery slope arguments.

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<sup>1</sup> Many examples of slippery slope arguments can be found in Douglas Walton, *Slippery Slope Arguments*, Oxford U.P. 1992, though his discussion is sometimes not critical enough.

(1) The discussion in which the argument is used concerns the question whether a certain class of actions A should be considered morally acceptable, or be legally permitted.

(2) The discussion presupposes a Status Quo position, in which people hold each other, or are hold by legal authority, to certain norms of behaviour, prohibiting A.

(3) It is proposed to move from the status quo position to a new one, which I will call the Top of the Slope, in which A will be considered acceptable or be permitted henceforward.

There is no logical reason why the proposal would not be to consider an action prohibited, which until now had been accepted, but, remarkably, slippery slope arguments only very rarely have this form.

(4) The opponents of the proposal do not question the acceptability of the Top position directly. They neither assume that actions of type A are offensive as such, nor suggest that such actions are to be avoided because of their negative consequences. (Though as a matter of fact they will usually hold one or both of these positions.)

(5) Instead the opponents argue that, if we go over to the Top position we have started a movement which will not stop before we have reached the Bottom of the Slope. Unpacking the metaphor: it is alleged that a causal mechanism exists which, once we accept actions of type A will cause us to accept actions of type N as well.

Note that in the paradigmatic form of the slippery slope argument it is not the A-type action itself which is supposed to have negative consequences, but rather the decision to consider such actions acceptable.

(6) The causal mechanism referred to has the character of a chain reaction: once we accept A, we will predictably accept B as well, this will cause us to accept C, and so on, until eventually we come to accept N.

What is the nature of the links of the chain? We should consider one possibility in particular.

(6.1.) Once we accept A, we have no reason to reject B, and, being reasonable people, we may be expected to realise this fact in due time.

Discussions of the slippery slope argument usually distinguish a logical form of the argument from a causal one. The logical form would simply consist of pointing out that, once we accept A, we are rationally committed to accepting B, C, and, eventually, N. But in practice this logical form is almost always incorporated into a prediction.

(7) The opponents assume that even the supporters of the proposal agree that actions of type N are beyond the pale, either for intrinsic reasons, or because of their bad consequences, or both. Most of the time it is silently presupposed that actions of type N, once they are accepted, will be done more often. However, even if this is not the case, it may be alleged that the fact that these bad actions are not only done, but also tolerated, is a bad thing in itself. On the other hand, the opponents may also argue that, whether or not as a consequence of accepting A actions of type N will be accepted, they will in any case be done

more often than they are done at present, and that is what, they suggest, should deter us from accepting A in the first place.

### *§ 3. The appeal to a pernicious precedent*

I will start my discussion by considering a form of argument which deviates from the paradigmatic form on two points. This is the appeal to a pernicious precedent. It is again conceded that A, on the face of it, has an innocent look. However, it is argued, once we accept A, we have no reason to reject B, which in all relevant respects resembles A. But B is clearly unacceptable. What is lacking to make this a paradigmatical slippery slope argument, is the incorporation of the rational commitment to B into a prediction of its acceptance, and the intermediate links between the top and the bottom position.

This is a valid form of argument: the considerations presented, if true, really give us good, if not decisive, reasons, to accept the conclusion. The validity of the argument depends on a well-known characteristic of normative predicates: their supervenience. If an action is acceptable, it is always because it has certain other characteristics which make it acceptable. A supervenient predicate is necessarily also a universalizable one, at least in this sense: if of two action-types the one is acceptable and the other is not, it has to be true that they differ on at least one other characteristic. It doesn't follow, however, that if one action-type has a number of characteristics which, taken together, make actions of this type acceptable, all actions which share the characteristics are acceptable as well. For they may have other characteristics still depriving them of acceptability. For this reason moral as well as legal argument is defeasible. Even good arguments need not be decisive ones.

This explains how the appeal to a pernicious precedent can be withstood: not only by pointing to a good-making characteristic of A which B doesn't share, but also by pointing to a bad-making characteristic of B which A doesn't share. The value of the argument is that it lays down the burden of arguing either of these two points (or the acceptability of B) squarely on the shoulders of the defendants.

### *§ 4. Slopes of reason*

In § 2 I said that the purely logical slippery slope argument can seldom be found in actual use. Because it can be integrated into a causal argument, it is nevertheless worth discussing.

The best-known use of this argument is in the context of the abortion-debate. If one considers the killing of a zygote to be acceptable, there is no reason to prohibit the killing of a 14 days-old embryo. If that is acceptable, there is no reason to start getting concerned about the killing of a fetus of three months. Etcetera: as the development from zygote to child occurs without any sudden jumps, once you have denied protectability to the zygote, there is no point at which you can reasonably think it to be imperative to protect the

developing human being. Not viability, because it depends on doctor's skills, nor birth, which after all doesn't involve any change in the child, but only in its environment.

This argument is similar in form to the one discussed in the last section: it only repeats the appeal to a precedent, until a clearly pernicious one is reached. If you permit A, you are committed to permitting B: if you permit B, you are committed to permitting C, etc. Therefore, if you permit A, you are committed to permitting N, which clearly is wrong. If the appeal to a pernicious precedent is a valid form of argument, then the logical slippery slope argument, it seems, cannot be an invalid one. We can only say that each step offers the defendants new chances of pointing out relevant differences.

But here is the snag. If the accomplishment of the argument is seen as a shift in the burden of proof, the burden it shoulders the defendants with is to identify exactly the point at which they to dig in their heels. At that is what they often cannot do.

However, the requirement itself rests on a fallacy, known from ancient times as the Sophism of the Heap (Sorites). Consider any person with a normal hair-growth. Take away one of her hairs. That wouldn't make her bald, wouldn't it? Take away another hair. How can one hair make the difference between a bald person and a non-bald person? It cannot. So we take away another hair, and another one etc. At the end of the process she has no hair left. Still, we are not allowed to call her bald, for we couldn't meet the requirement of pinpointing the exact moment at which she joined the class of bald persons. (It may be objected that only a person with no hair at all is a bald person, strictly spoken, but that is not how we normally use the word.)

It is difficult to explain exactly why this is a fallacy, the logicians still disagree about it. The argument uses three premisses:

- (1) This person has a certain determinate number of hairs.
- (2) This person isn't bald.
- (3) If a person with a certain determinate number of hairs isn't bald, a person with one hair less isn't bald either.

The problem is that premisses (1) and (2) may be true, premiss (3) seems indisputable, and the argument-form which we use in deriving the absurd conclusion that a person with no hairs left isn't bald, clearly is a valid one. Perhaps we should hold that the argument-form isn't applicable in all cases, in particular not when the relevant predicate ("bald") is a vague term, i.e. a term referring to an indeterminate section of a continuum.

Note that it isn't sufficient to suspend the so-called Law of the Excluded Middle. This is the logical principle saying that for any predicate P, every thing in the universe is either P or not-P. It is true that we should suspend the principle in the case at hand. It isn't true that a person is either bald or non-bald: there is a grey area between the two possibilities. However, it doesn't follow that we can reject premiss (3), for that would mean to suggest that the boundaries of the grey area are themselves determinate, which they aren't.

It is difficult to explain why Sorites is a fallacy, but it is beyond doubt that it is a fallacy, and that is the important thing. That there is a grey area, and that

its boundaries are indeterminate themselves, doesn't imply that we cannot identify points which are definitely at one or the other side of the grey area. For that reason the logical slippery slope argument doesn't succeed in shifting the burden of proof.<sup>2</sup> The requirement to locate the exact stopping place on the slope should simply be rejected. If you are able to point to a relevant difference between a zygote and a new-born child, it doesn't matter that you are unable to tie the emergence of the difference to an exact point in time. If you are in doubt whether a genetic predisposition for retinitis pigmentosa (an illness which reveals itself in the gradual but eventually complete loss of sight between age 20 and 40) is a good reason for abortion, you are not barred from being sure about Huntington's disease on the one hand and color-blindness on the other.

It is true that we are in need of conventional or legal norms locating such a point. For, if we allow embryo-experimentation or abortion in the first trimester, and forbid infanticide and the use of babies in life-endangering medical experiments, then we have to identify a point at which protectability starts, or a series of points at which it gradually increases. If there is no principled way of making this identification, the only reasonable thing to do is to fasten upon an arbitrary point lying safely within the core zone of the grey area. This point will tend to be a "salient" one, like viability or birth, but, as far as this argument goes, even these points don't have any intrinsic importance. It is sometimes argued that we should aim at "erring on the safe side", and therefore stay squarely at one side of the grey area. But that suggestion rests on the mistaken idea that, after all, there really exists a clear dividing-line between the bald and the non-bald, we only don't know where it is.

In the case of the discussion about abortion we can illustrate the fatal weakness of the logical slippery slope argument in another way. The proponent of the argument obviously presupposes that the status quo position isn't indeterminate at all: the protectability of human life begins at conception. However, fertilisation is a continuous process, just like fetal development, only involving a smaller being and a shorter time span. So where exactly do we draw the line: when the sperm contacts the plasma membrane of the oöcyte, when it penetrates its zona pellucida, when the second meiotic division is completed, when the male and female pronuclei have formed, each with its own membrane, or when these membranes break, allowing the chromosomes to mingle? If there is no non-arbitrary answer to this question, does it follow that conception cannot be a morally relevant boundary-line?

You will only be able to reject a logical slippery slope argument in this way, if you are able to point to a relevant difference between the Top and the Bottom of the Slope. Liberals on the abortion-issue often have a problem here. For the characteristics they believe to be the real basis of the protectability of the human being (and other animals) are such that they cannot be ascribed to babies. These are the characteristics of persons, most basically an awareness of the self as continuous through time, which in its turn is presupposed in the abilities of having a memory, of making plans, of identifying others and communicating with them. However, that doesn't mean that the logical

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<sup>2</sup> As Walton suggests it sometimes does, o.c., 48 ff.

slippery slope argument is rehabilitated. As I suggested, it can be seen as an elaboration of the appeal to a dangerous precedent, presupposing that, wherever we can design a continuous line between A and N, such that it is impossible for anybody to identify a clear boundary on the line, A really is a precedent for N. This presupposition is false. But, of course, that doesn't mean that we cannot appeal to the condemnability of N directly in order to argue against the acceptance of A. That argument really succeeds in shifting the burden of proof. Liberals can respond in either of two ways: they can try to find a relevant difference between zygotes and babies after all (for instance the role of the being in human relations and social forms), or they can bite the bullet and accept that there are no intrinsic reasons for protecting the life of a baby anymore than the life of a zygote, birth being at most a convenient point for drawing the arbitrary dividing-line we have to draw anyway.

### § 5. *Slopes of unreason*

In describing the paradigmatic form of the slippery slope argument I said that the causal mechanism it relied upon for its prediction of dire consequences sometimes relies on human rationality. In this section I will discuss cases in which the causal mechanism isn't assumed to involve any such form of rational commitment.

More specifically I said that in the first class of cases the causal mechanism relied on human rationality in the following way: once we accept A, we have no reason not to accept B, and, being reasonable people, we may be expected to realise this fact. So we will accept B, then for the same reason C, etc., until we reach N. We now see that reasoning in this way is not rational at all, but fallacious. The interesting thing, however, is that this need not impair the force of the prediction. Perhaps this is a kind of fallacy people are particularly prone to commit, as their tendency to be impressed by the logical slippery slope argument testifies. In other words: the only moral boundaries which have any chance of being respected are determinate ones. Morality should eschew the continuum. Very often the use of an slippery slope argument depends on this assumption.<sup>3</sup>

The moral psychology behind it is not obviously true. What kind of line will tend to be more respected: a hard and fast but (assumably) irrelevant one, or a rather indeterminate one which at least has clear instances of morally different cases at both sides of the line? What we know of the development of moral sensibility suggests that people will start their career as moral agents pretty close to the first position, but gradually move away from it. The question then becomes: to what extent are we prepared to treat our fellows as moral adults? It is plausible to assume that assessments of their competence are to a certain extent self-fulfilling.

The assumption is not only a dubious one for its factual presuppositions, it is also in logical trouble. For, to take our illustration again from the abortion-

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<sup>3</sup> It is basic to the defense of the rational respectability of the slippery slope argument in David Lamb, *Down the Slippery Slope*, Croom Helm London etc. 1988.

debate, it is not difficult at all to identify any determinate point in the human development after conception, the problem is that any such point is apparently only an arbitrary one. But this means that it is not enough to show (what is false anyway) that conception is a determinate point, we should also show that it is not an arbitrary one. People who are only asking for determinateness resemble the drunk who is looking for his hat under a lamppost, not because he has lost it there, but because there you have clear sight.

However, a more correct and fair judgment would be to say that people arguing this way actually assume that the status quo position is not an arbitrary one at all, but the only morally defensible one. But then their use of a slippery slope argument will not convince the unconverted.

Even so, it is problematical. Not only in the form I have so far discussed in this section, but in any form, in which people are predicted to accept N without good reason, having started to accept A, whether or not this is because they can't draw a clear dividing-line at any point on the continuum of intermediate cases.

We usually suppose our judgments of moral acceptability to be matters of belief: considering A to be acceptable means believing that it is. The slippery slope argument amounts to saying: once you believe this, you will end up believing N to be acceptable as well, and this is clearly and catastrophically false. But even if that is true, it is no reason at all for not believing A to be acceptable. A proposition isn't any the less true if believing it has undesirable consequences. It isn't any the less true either, if believing it leads people to believe some false things as well, as long as this is not a matter of rational commitment.

In order to make any sense of the argument, we have to move in either of two directions, or both. The first option, which most proponents of a slippery slope argument will hate to take, is to assume that what we are discussing is not a matter of basic moral truth but a matter of human convention. The proposal which the slippery slope argument is meant to refute, would then be that we have good reason to change our conventions, from the status quo to the new position.

Even if we conceive it in this way, the argument has a strong smell of paradox. Someone proposes to a certain audience, possibly involving anyone sufficiently interested to read about these matters, that it would be a good thing if people generally allowed each other to do A. The slippery slope argument presents an objection to this proposal to the same audience. The objection is that implementing the proposal would lead people, irrationally, to allow each other to do some really nasty things as well. It is hard to believe that any audience will be convinced by this objection which consists of a random selection from the very same people who are supposed, irredeemingly, to be subject to the relevant causal mechanism. If they can understand the argument, why can't they correct their reasoning?

So the other direction we should move into anyway is to suppose the argument to be addressed to a moral elite. The true morality can only be a secret doctrine, revealed to a chosen few. We, the enlightened, know that to

enlightened people A would be fully acceptable. However, we shouldn't tell the mob, for they will immediately start to steal the table-silver.

If the new position we are discussing is a matter of legal provision, rather than of moral acceptance, however, some of the arguments of this section don't apply. For a legal enactment, even if it should be justified to a large extent by moral belief, is not an expression of that belief, it is really a matter of decision. For that reason it isn't improper to argue that A should not be permitted because it will lead to N being permitted, by another authority or the same one (presumably being staffed by other people), or at least to N being enacted more often (by the legal subjects).<sup>4</sup>

Furthermore, determinacy has an indisputable value in law. For the question here is not only what kind of boundaries command respect, but also which forms of respect can be intersubjectively verified, e.g. by police-officers or judges, but also by fellow-citizens. Even so, arbitrary boundaries will be most acceptable, if they draw a line within a recognizably grey area which has to be drawn anyway. If an arbitrary boundary is chosen for the only reason that it is determinate, even if it prohibits morally innocent behaviour which is important to the people involved, it is questionable whether this boundary should (or will) be respected. So even in this case the effective use of the slippery slope argument presupposes that the status quo position has other moral credentials besides determinacy. Perhaps we may expect a slippery slope argument to have an independent force in this area in particular in those cases in which it is used to tip the scale in favour of a status quo, when people disagree about the intrinsic moral superiority of the status quo or the new position.

### § 6. *Factual and moral plausibility*

So far I have mainly established two points:

- (a) The only valid form of the slippery slope argument (if it should be called one) which refers to a slope of reason, is the form which doesn't rely on the construction of a continuum of intermediate cases.
- (b) In the domain of moral argument the slippery slope argument cannot be applied to matters of basic moral truth, but at most to matters of convention.

Which other general conditions, if any, can we state for constructing a sound slippery slope argument? One obvious point is that the causal mechanism we specify should be a plausible one. Given the fact that our knowledge of social psychology is very limited, that is not an easy task. To show that it is not an impossible one, some authors point to descents of slippery slopes which have actually occurred in the past. Some of these examples are more convincing than others, but the basic point is that if we can confidently explain afterwards why things have gone wrong, that doesn't mean that we

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<sup>4</sup> That the force of the slippery slope argument should be evaluated very differently when it used in the context of the ethics of legislation, has been shown by Wibren van der Burg, 'The Slippery Slope Argument', *Ethics* 102 (1991), 42-65, cf. Frederick Schauer, 'Slippery Slopes', *Harvard Law Review* 99 (1985), 361-383.

could confidently have predicted this to happen beforehand as well. We can only conclude that in most cases in which we can give any weight to bad consequences predicted by a slippery slope argument, we should be rather modest in our estimation of the probability of these consequences.

Even if it is then reasonable to give some weight to these considerations, it will not automatically be a decisive weight. In this context the metaphor of the slippery slope is somewhat misleading: slopes incline to one side only. But in discussing actual moral problems we will mostly find that staying at the status quo has its moral costs as well. It may even be the case that some of these can be presented in the form of a competing slippery slope argument.<sup>5</sup>

It is hard to generalize at this point. The most we can say is that new conventional and legal regimes almost always open up new possibilities of abuse and mistake, even if abuse and mistake are to be identified in terms of the new regime. Whether or not these consequences belong to the area of the slippery slope argument proper (they don't always involve a causal chain, or actions of acceptance as links of the chain), these possibilities have to be taken very seriously.<sup>6</sup>

Recently, it was discovered that a nurse in a Dutch hospital for elderly people had killed at least five patients in a progressive state of Alzheimer's disease, by giving them overdoses of insulin. She claimed, probably honestly, to have acted from a motive of mercy. According to the psychiatric report she was a very unbalanced person prone to project her own mental sufferings to others.

It is clear that in terms of the moral consensus and the legal regime concerning mercy-killing presently accepted in the Netherlands her actions were wrong: she did not conform to any clearly expressed will of those patients, there probably was no unbearable suffering, she was not a physician, and she acted in a way designed to escape accountability for her actions. Nevertheless, it could be argued, and it has been argued, that she could only have acted in this way because the Dutch moral consensus and legal regime does allow euthanasia in some cases. Believing that mercy could be a good reason for killing, she could come to think, however mistakenly, that it was a good ground in those cases. It is obviously difficult to substantiate a claim like this, it would probably not pass a court of law. Nevertheless, it is not wholly implausible.

On the other hand, people who find their predictions concerning the Dutch experiment with euthanasia confirmed by such events -which to the best of our knowledge occur very rarely-, are mostly rather selective in their accounting of the moral costs. They don't attach any weight at all to the fact that, if the option of euthanasia is not available, some people will have to go

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<sup>5</sup> Cf. John Griffiths, 'Assisted Suicide in the Netherlands: The Chabot case', *Modern Law Review* 58 (1995), 232-248, arguing that it is only by legally allowing euthanasia and assisted suicide under strict conditions of careful action, that one can succeed in bringing "a number of socially dangerous medical practices which exist everywhere under a regime of effective societal control", not by "invoking taboos as if these describe actual practice".

<sup>6</sup> Cf. the excellent discussion of euthanasia and the risks of abuse in Margaret P. Battin, *The Least Worst Death*, Oxford U.P. New York 1994, ch. 8.

through a prolonged period of severe suffering before they die, people who most urgently wish to avoid that period.

This selectivity in taking account of negative consequences points to another way in which the use of a slippery slope argument usually presupposes the full moral acceptance of the status quo position. Only if taking a life is always wrong, even if it is done to prevent unbearable and hopeless suffering, are we justified in neglecting that side of the balance.

If we take the slippery slope argument as an independent argument, even in cases in which the prediction it makes is not implausible, it will mostly fail to be decisive. That is not in itself a weakness of the argument. Its major weakness can be illustrated by the euthanasia-debate again. We assume that the bad consequences the argument predicts don't follow from people deriving the right consequences from their acceptance of the new position, they follow from their making mistakes in reason, as the Dutch nurse did. This means that when we use a slippery slope argument in order to argue against the conventional or legal acceptance of voluntary euthanasia, we deny some people their wish of not being subjected any more to the agonies which for them necessarily are involved in living. We do so, not because there is anything improper in granting their wish, but because other people will erroneously do unacceptable things if such wishes are granted. But is it fair to require them to sacrifice their most vital interests, in order to prevent other people from sinning?

This is a general weakness of all forms of consequentialism which do not systematically distinguish between direct and indirect responsibility. (Indirect responsibility being my responsibility for states of affairs occurring by other people responding in predictable ways to my actions.) It is ironical that this weakness can be found in the argument which is such a favourite with people subscribing to strongly anti-consequentialist views.

### *§ 7. Appearance and reality*

This shows again that the slippery slope argument cannot stand on its own feet. That has been a recurrent theme of my discussion. So far I have taken the argumentative claims of the slippery slope argument at face value. I have found that it can, at best, have some force, hardly a decisive one, within a restricted area of application, when it is made in a tentative way. The most prominent aspect of its use in actual discussion, however, is that these restrictions are seldom honored: the argument is often used in the context of the discussion of moral basics, and its predictions, especially in this context, are almost always put forward as absolute certainties, and as unreservedly deciding the matter in favour of the status quo position.

I believe that it is seldom worthwhile to address such arguments directly. They should rather be taken as expressions of allegiance to the moral superiority of the status quo position, and be addressed as such. What they mean is this: the one important moral boundary is the boundary between the status quo and the new position. The boundary the defendants suggest to exist between the top and the bottom, on the other hand, is not a morally important

one at all. Therefore, if we move to the top position, we have crossed the Rubicon, we have entered into a sphere in which the bottom position is really, whatever the defendants believe, no longer a moral impossibility. The prediction: and so we will eventually accept the bottom position as well, is only a way of dramatizing this claim, it doesn't add anything substantial to it.

Reconstructed this way, the argument amounts to an appeal to a pernicious precedent. The prediction doesn't matter, the intermediate cases don't matter, and the suggestion of detachability from the primary moral controversy is misleading. To return to the example I started with: the real question about prenatal diagnostics is whether the decision to prevent the birth of a handicapped child really is equivalent to saying that handicapped people have no life worth protecting. If it is, then the procedure stands condemned, and the "consequences" pointed out in the argument I quoted in § 1 don't add to this condemnability. They only express it.

The best course to take for defendants in such cases is to ask the opponents squarely whether they believe the slippery slope argument to be independent from their loyalty to the status quo or not. If they answer they don't, we can go on discussing the intrinsic moral merits of the status quo and the new position. If they answer they do, the defendants most of the time will be able to show that this claim is untenable. Only if it isn't, does it make sense to enter into a discussion of the plausibility and force of the argument.