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Slipping on Slippery Slope Arguments

Abstract

Slippery slope arguments (SSAs) are used in a wide range of philosophical debates, but are often dismissed as empirically ill-founded and logically fallacious. In particular, leading authors put forward a meta-SSA which points to instances of empirically ill-founded and logically fallacious SSAs and to the alleged existence of a slippery slope leading to such SSAs to demonstrate that people should avoid using SSAs altogether. In this paper, I examine these prominent calls against using SSAs and argue that such calls do not withstand scrutiny. I then identify several types of mechanisms leading to slippery slopes in real-life contexts to demonstrate that both the strength of SSAs and the justifiability of using SSAs are best assessed on a case-by-case basis. This result does not exempt the proponents of SSAs from the task of vindicating their use of SSAs. However, if correct, it undermines the often-made claim that people should avoid using SSAs altogether.

Keywords: Slippery Slope Arguments; Bioethics; Law; Public Policy; Vagueness; Fallacies.

1. Introduction

Slippery slope arguments (henceforth, SSAs) are used in a wide range of philosophical debates across bioethics (e.g. Dore, 1989, Sullivan, 1975), law (e.g. Kamisar, 1958, Lode, 1999), politics (e.g. Rizzo and Whitman, 2003, van der Burg, 1991) and public policy (e.g. Crawford, 2003, Keown, 2002). For example, SSAs have been put forward to argue against allowing voluntary euthanasia (because allowing it would likely lead to putatively unacceptable forms of involuntary euthanasia, e.g. Sullivan, 1975), against banning pharmacogenetics research (because imposing such ban would likely lead to putatively unacceptable infringements of freedom of research, e.g. Schubert, 2004), against allowing the abortion of developed fetuses (because allowing it would likely lead to putatively unacceptable killings of unhealthy newborns, e.g. Dore, 1989), and against implementing libertarian paternalistic policies (because implementing such policies would likely lead to putatively unacceptable restrictions of individual autonomy, e.g. Rizzo and Whitman, 2009).¹

Despite their widespread use, SSAs are often dismissed as empirically ill-founded (e.g. Arras, 1982, Holtug, 1993, Resnik, 1994, Rudinow, 1974) and logically fallacious (e.g. Howell and Kemp, 2002, Li, 1992, Spielthener, 2010, Tindale, 2007). The idea is that “typical formulations of [SSAs are] seriously deficient both in logical rigour and in [empirical] underpinning” (Burgess, 1993, 169), and that

¹ The examples of SSAs cited in the main text may be categorized into different types depending on their argument structure, what kinds of evidence they draw on and what themes or disciplines they target. I expand in Section 2 on the argument structure of SSAs and on various categorizations of distinct types of SSAs.

most SSAs “deserve to be viewed skeptically” (Schauer, 1985, 382). In particular, some leading authors (e.g. Enoch, 2001, LaFollette, 2005) put forward an ingenious *meta-SSA* which points to instances of empirically ill-founded and logically fallacious SSAs and to the alleged existence of a slippery slope leading to such SSAs to demonstrate that people should avoid using SSAs altogether. The meta-SSA holds not merely that since SSAs “are often fallacious [and] used for ill” (e.g. LaFollette, 2005, 476) people have adequate inductive grounds to avoid using SSAs. Rather, the claim is that there is “an air of self-defeat about the use of SSAs”, and that people should not use “*even good* SSAs, because that will lead them [...] to use bad SSAs” (Enoch, 2001, 629 and 640, italics added; also LaFollette, 2005, 476).²

If correct, these prominent calls against using SSAs would have remarkable implications for philosophical debates, since SSAs are frequently used in these debates (e.g. Dore, 1989, Keown, 2002, Lode, 1999, Rizzo and Whitman, 2003, Sullivan, 1975, van der Burg, 1991). In this paper, I examine those calls against using SSAs and argue that such calls do not withstand scrutiny. My aim is by no means to provide an unqualified defence of SSAs. Rather, my main thesis is that both the strength of SSAs and the justifiability of using SSAs are best assessed on a case-by-case basis. This result does not exempt the proponents of SSAs from the task of vindicating their use of SSAs. However, if correct, it undermines the often-

² LaFollette (2005) does not explicitly phrase his critique of SSAs in terms of a meta-SSA. However, his interesting article provides three main putative reasons to support the meta-SSA’s conclusion that people should avoid using SSAs altogether, namely that SSAs “are especially prone to be vague and ill-formed [...] sound suggestive even when argumentative details are vague or absent [and] even when they are cogent, [one] can always find [better] arguments that capture their insights without carrying their argumentative baggage” (ibid., 476). I take my critical evaluation of the meta-SSA to challenge also these putative reasons against using SSAs.

made claim that people should avoid using SSAs altogether. The paper proceeds in two sections as follows. In Section 2, I explicate the argument structure of SSAs, identify some components shared by most SSAs, and distinguish various factors that determine the strength of SSAs. In Section 3, I examine and rebut the proffered calls to avoid using SSAs altogether, focusing on the meta-SSA's claim that people should not use "even good SSAs, because that will lead them [...] to use bad SSAs" (Enoch, 2001, 640; also LaFollette, 2005, 476). I then identify several types of mechanisms leading to slippery slopes in real-life contexts to demonstrate that both the strength of SSAs and the justifiability of using SSAs are best assessed on a case-by-case basis.³

Before proceeding, three preliminary remarks are in order. First, the critics of SSAs rarely specify in detail what exactly they mean by *good SSAs* and *bad SSAs*. Still, the way they use these expressions (e.g. Enoch, 2001, LaFollette, 2005) makes it clear that 'good SSAs' designates SSAs that are logically valid and provide cogent reasons (or evidence) for the views they defend, whereas 'bad SSAs' designates SSAs that are logically invalid and/or fail to provide cogent reasons (or evidence) for such views. Below I follow this usage unless stated otherwise. Second, I speak of SSAs' *strength* to indicate the degree to which SSAs satisfy the conditions for qualifying as good SSAs in the sense just explicated. In doing so, I mention SSAs'

³ A proponent of the meta-SSA may object that my claim that both the strength of SSAs and the justifiability of using SSAs are best assessed on a case-by-case basis does not contradict the meta-SSA since the meta-SSA acknowledges the existence of some good SSAs. Now, it is true that the meta-SSA acknowledges the existence of some good SSAs (e.g. Enoch, 2001, 630-4, LaFollette, 2005, 475). Still, my claim that both the strength of SSAs and the justifiability of using SSAs are best assessed on a case-by-case basis does contradict the meta-SSA. For the meta-SSA, while acknowledging the existence of some good SSAs, purports to show that people should not use "even good SSAs, because that will lead them [...] to use bad SSAs" (Enoch, 2001, 640; also LaFollette, 2005, 476).

strength and the justifiability of using SSAs separately to allow for the possibility that SSAs' strength and the justifiability of using SSAs do not always covary (Section 3).⁴ And third, my thesis that SSAs are best assessed on a case-by-case basis does not prevent one from identifying distinct *types* of SSAs (Section 2) and providing type-level *criteria* for assessing SSAs' strength and the justifiability of using SSAs (e.g. the types of mechanisms I identify in Section 3 provide various criteria for identifying real-life contexts where slippery slopes are especially likely). Yet, the point remains that calls against using SSAs altogether operate at an overly coarse-grained level of analysis to ground informative and reliable evaluations of SSAs' strength and the justifiability of using SSAs.⁵

2. SSAs: Analysis

SSAs are a species of argument from negative consequences, which “cites the [putative negative] consequences of a proposed course of action as a reason against taking that course of action” (Walton, 2015, 280; also Enoch, 2001, 636 and 645). More specifically, SSAs argue against a proposed action, practice or policy A_I on the alleged ground that allowing or implementing A_I will (likely) lead to some

⁴ The logical validity of SSAs does not come in degrees. Still, both the strength of SSAs and the justifiability of using SSAs are plausibly taken to come in degrees because the cogency of the reasons (or the evidence) that SSAs provide for the views they defend is plausibly taken to come in degrees (e.g. Corner et al., 2011, Hahn and Oaksford, 2007).

⁵ This conclusion nicely fits prominent authors' view that both the strength and the justifiability of using different instances of arguments having the same argument structure can vary significantly depending on various contextual factors (e.g. Hamblin, 1970, ch.8, Walton, 1995, ch.4-7, Woods et al., 2004, on the relevance of dialogical and dialectical features of the context of argumentation; also Walton, 1992, ch.6-7, Woods and Walton, 2007, on cases where instances of arguments whose argument structure is often labelled as fallacious can supply presumptive support for their conclusions by offering defeasible reasons which shift the burden of proof on one's interlocutors). I expand on various contextual factors affecting the strength and the justifiability of using SSAs in Section 3.

unacceptable (i.e. morally impermissible or otherwise objectionable) action, practice or policy A_n , typically through a number of intermediate stages A_2, \dots, A_{n-1} (e.g. Haigh et al., 2016, 819, Jones, 2011, 382, Lewis, 2007, 197, Schauer, 1985, 369). To be sure, the expression ‘SSA’ is occasionally used to designate arguments with different structures (e.g. Den Hartogh, 2009, on appeals to dangerous precedents). Still, most SSAs share the following components: (1) a proposed action, practice or policy A_1 ; (2) an action, practice or policy A_n which is claimed to be unacceptable (i.e. morally impermissible or otherwise objectionable); (3) the claim that allowing or implementing A_1 will (likely) lead to A_n , typically through a number of intermediate stages A_2, \dots, A_{n-1} ; and (4) the (often implicit) inference that the unacceptability of A_n , together with A_1 ’s tendency to lead to A_n , provides (pro tanto) reason against allowing or implementing A_1 (e.g. Corner et al., 2011, 135, Holtug, 1993, 403, van der Burg, 1991, 42, Whitman, 1994, 85).⁶

SSAs’ argument structure can be schematized as follows:

P1. Allowing or implementing A_1 will (likely) lead to A_n .

P2. A_n is unacceptable.

P3. If allowing or implementing A_1 will (likely) lead to A_n and A_n is unacceptable, then one has (pro tanto) reason against allowing or implementing A_1 .

⁶ Some SSAs mention only A_1 and A_n , leaving any intermediate stages A_2, \dots, A_{n-1} unstated. I mention these intermediate stages in my characterization of SSAs’ argument structure because the slope from A_1 to A_n is commonly taken to encompass a sequence of intermediate stages (e.g. Haigh et al., 2016). Also, I generally speak of A_1 ‘leading to’ (rather than ‘causing’) A_n so as to encompass cases where the sequence of stages from A_1 to A_n involves some non-causal mechanisms such as observations pertaining to the logical consistency of the relevant people’s judgments (e.g. Walton, 2015, 292, for a similar characterization).

C. One has (pro tanto) reason against allowing or implementing A_I .⁷

The following remarks concerning SSAs' argument structure bear on the evaluation of SSAs' strength and the justifiability of using SSAs. First, some authors take SSAs' argument structure to include the additional premise that SSAs' proponents grant that A_I is "prima facie morally permissible" (LaFollette, 2005, 478). Still, SSAs are often put forward by people who regard A_I as morally impermissible, or at least do not take explicit position regarding the moral permissibility of A_I (e.g. Jones, 2011, van der Burg, 1991). Hence, it would be overly restrictive to include reference to the putative moral permissibility of A_I into SSAs' argument structure. To be sure, some SSAs' proponents grant, for the sake of argument, that A_I may be regarded as prima facie morally permissible irrespective of whether they regard A_I as morally permissible. This, however, does not license the claim that, *in general*, one should include reference to the putative moral permissibility of A_I into SSAs' argument structure. Similarly, claiming that SSAs' proponents "would not need SSAs [...] if they had compelling independent reasons to think that [A_I is morally impermissible]" (LaFollette, personal correspondence) does not license including reference to the putative moral permissibility of A_I into SSAs' argument structure. For even if SSAs' proponents regarded their reasons to think that A_I is morally impermissible as compelling, such

⁷ SSAs' argument structure may be characterized in terms of a *modus tollens* of the form: if one allows or implements A_I , then some unacceptable A_n will (likely) occur; one ought to avoid the unacceptable A_n ; therefore, unless one has cogent independent reasons to allow or implement A_I , one ought not to allow or implement A_I (e.g. Walton, 2015, 291, for a similar characterization). I take my schematization of SSAs' argument structure to be compatible with such characterization.

reasons may not be regarded as compelling by their opponents, so SSAs' proponents may still need SSAs to support the views they defend.⁸

Second, I take SSAs to aim at providing *pro tanto* (rather than *decisive*) reasons against A_1 . For distinct SSAs aim at providing reasons of different strength against A_1 , and only a limited subset of SSAs aim at providing decisive reasons against A_1 (e.g. Spielthener, 2010). SSAs' argument structure may be modified to encompass arguments that *advocate* allowing or implementing A_1 on the alleged ground that A_1 will likely lead to a commendable (or otherwise desirable) A_n (e.g. Schubert, 2004). Below I focus on arguments *against* allowing or implementing A_1 since the debate about SSAs prevalently targets this set of arguments. For now, I note that although SSAs are frequently used to oppose changes to the status quo (e.g. Haigh et al., 2016, LaFollette, 2005), there does not have to be anything politically conservative in the views defended by such arguments (e.g. Rizzo and Whitman, 2009; also Schubert, 2004, on SSAs used to support pharmacogenetics, Volokh, 2003, on SSAs used to oppose restrictions on abortion). In fact, SSAs are put forward by thinkers and policy makers of rather different political persuasions (e.g. Jefferson, 2014, Jones, 2011, for illustrations).⁹

⁸ A critic of SSAs may object that “for SSAs to have any dialectical force, [their proponents] have to think there’s *some* relevant distinction between A_1 and A_n [i.e.] that A_n is more seriously wrong, or more clearly wrong, or at least more uncontroversially wrong than A_1 ” (Enoch, personal correspondence). I am not persuaded that every proponent of SSAs is committed to thinking that there is a morally relevant distinction between A_1 and A_n (e.g. the mere fact that A_1 and A_n are different actions, practices or policies does not commit one to thinking that the difference between A_1 and A_n is morally relevant). For my evaluation, it suffices to note that not all SSAs posit a morally relevant distinction between A_1 and A_n , and that the fact that various SSAs posit such distinction does not *per se* license including reference to the putative moral permissibility of A_1 into SSAs' argument structure.

⁹ Not all SSAs explicitly refer to actions, practices or policies (e.g. various SSAs in bioethics and metaphysics refer to propositions rather than actions, practices or policies). Still, taking the argument structure of SSAs to target actions, practices or policies enables

Third, various *types* of SSAs have been distinguished in the specialized philosophical literature. In particular, several authors contrast *empirical* SSAs, which hold that allowing or implementing A_I will (likely) lead to A_n as a matter of empirical fact, and *logical* SSAs, which hold that allowing or implementing A_I commits one to allowing or implementing A_n on pain of logical inconsistency (e.g. Douglas, 2010, 185, LaFollette, 2005, 475-482, Schauer, 1985, 364-5). According to some, logical SSAs are more aptly categorized as mere calls to treat like cases alike rather than proper SSAs (e.g. Enoch, 2001, 645, van der Burg, 1991, 56). I do not expand here on the issue whether all logical SSAs are more aptly categorized as mere calls to treat like cases alike rather than proper SSAs. For my evaluation can be taken to target both empirical SSAs and those logical SSAs (if any) that are aptly categorized as proper SSAs in terms of the argument structure outlined in this section.¹⁰

Finally, the strength of SSAs directly depends on both how *likely* it is that A_I will lead to A_n and how *objectionable* A_n is (e.g. Evans et al., 2008, 101, Holtug, 1993, 404, Lode, 1999, 1524). SSAs vary greatly in both of these respects (Section 3). In particular, one can undermine several SSAs by showing that they fail to demonstrate that allowing or implementing A_I likely leads to A_n (e.g. Jefferson, 2014, against SSAs stating that allowing gay marriage would lead to interspecies

one to encompass the vast majority of SSAs. For most SSAs (including many SSAs in bioethics and metaphysics) ultimately target actions, practices or policies (e.g. Finnis, 1989, McMahan, 1995, on SSAs figuring in bioethical debates). And the actions, practices or policies targeted by SSAs may be plausibly taken to encompass the action of believing, accepting, endorsing, etc. the propositions figuring in such SSAs.

¹⁰ Additional categorizations of SSAs (e.g. Walton, 1992, ch.2-5, on causal, precedent and sorites SSAs) have been put forward in the specialized philosophical literature. I expand on specific categorizations when my evaluation depends on such categorizations (e.g. Section 3 on various legal, political and psychological mechanisms leading to slippery slopes in real-life contexts).

marriage) or that they fail to demonstrate that A_n is unacceptable (e.g. LaFollette, 2005, against SSAs used to resist extending political rights to women). The availability of several instances of bad SSAs - together with the alleged existence of a slippery slope leading to such SSAs - challenges SSAs' proponents to vindicate their use of SSAs by showing that the SSAs they put forward are logically valid and provide cogent reasons (or evidence) for the views they defend. Still, as I argue in Section 3, it by no means licenses the often-made claim that people should avoid using SSAs altogether.¹¹

3. SSAs: Evaluation

In this section, I examine and rebut the proffered calls to avoid using SSAs altogether, focusing on the meta-SSA's claim that people should not use "even good SSAs, because that will lead them [...] to use bad SSAs" (Enoch, 2001, 640; also LaFollette, 2005, 476). The meta-SSA holds not merely that since comparatively few SSAs qualify as good - i.e. are logically valid and provide cogent reasons (or evidence) for the views they defend (p.4) - people have adequate

¹¹ The likelihood that A_1 will lead to A_n and the objectionability of A_n are not the only factors that determine the strength of SSAs (e.g. additional factors include the objectionability of the intermediate stages through which A_1 will likely lead to A_n and the length of the temporal interval required to lead to the putatively objectionable A_n). Moreover, both the likelihood that A_1 will lead to A_n and the objectionability of A_n are often difficult to assess in real-life contexts. For instance, in presence of uncertainty, allowing A_1 may lead to a variety of alternative actions, practices or policies, with SSAs' strength depending on the objectionability of such actions, practices or policies weighted by their respective probabilities (e.g. Hahn and Oaksford, 2006, Spielthener, 2010). In fact, in some cases it may be difficult to identify what actions, practices or policies lie at the end of the putative slopes under consideration (e.g. Launis, 2002, 169, on the possibility to object to somatic cell therapy "not so much because of what is at the bottom of the [relevant slope, but because somatic cell therapy] is on a slope of which one does not know what is at the bottom"). I mention these probabilistic and evidential complications in passing since my evaluation does not directly rest on how one aims to solve such complications.

inductive grounds to avoid using SSAs. Rather, the claim is that there is “an air of self-defeat about the use of SSAs” and that “one can construct [a meta-SSA] the conclusion of which is, that [people] ought not to use SSAs” (Enoch, 2001, 629). The meta-SSA, which putatively targets even “the best version of SSAs” (ibid., 629), can be explicated as follows.

People are demonstrably bad at making “the second-order distinction between distinctions [they are] good at abiding by and [distinctions they are] bad at abiding by” (Enoch, 2001, 629), i.e. people frequently fail to determine whether they make the relevant distinctions between the examined actions, practices or policies and whether they act according to such distinctions (ibid., 631-5). As a result, people are “bound to fail to make [or abide by] the distinction between good and bad SSAs” (ibid., 629), and there is a slippery slope from good SSAs to bad SSAs. Therefore, even if people could construct some good SSAs, people “ought not to use SSAs [because even] using good [SSAs] would lead to [their] using bad ones” (ibid., 635). To be sure, the meta-SSA grants that people “may be good at distinguishing good SSAs from bad ones even though [they are] not good at distinguishing between distinctions [they are] good at abiding by and those [they are] bad at abiding by” (ibid., 635). However, it holds that vindicating the use of SSAs requires SSAs’ proponents to show that people “are more likely to fail to abide by the distinction between [acceptable and unacceptable actions, practices or policies] than the one between good and bad SSAs” (ibid., 640). And, the meta-SSA goes, SSAs’ proponents typically fail to meet this justificatory requirement.

There are at least three major reasons to doubt that the meta-SSA provides convincing reasons against using SSAs altogether. First, it is dubious that, *in general*, “using good [SSAs] will lead [people] to use bad SSAs” (Enoch, 2001, 640). Second, even assuming that using good SSAs often leads people to use bad SSAs, the meta-SSA does not provide a *decisive* reason against using any specific SSA, but merely points to *one* of the factors one should consider when deciding whether or not to use specific SSAs. Hence, one may consistently grant that using good SSAs often leads people to use bad SSAs, yet resist the meta-SSA’s conclusion that people should avoid using SSAs altogether. And third, a *variety* of legal, political and psychological *mechanisms* can demonstrably lead to slippery slopes in real-life contexts. Moreover, these mechanisms’ tendency to lead to slippery slopes *varies remarkably* across such contexts. And one can build on this contextual variability to demonstrate that both the strength of SSAs and the justifiability of using SSAs are best assessed on a case-by-case basis. In points 3.1-3.3 below, I expand on each of these three reasons in turn and explicate how each reason bears against the meta-SSA.¹²

3.1 The meta-SSA infers that there is a slippery slope from good SSAs to bad SSAs on the alleged ground that people are “bound to fail to make [or abide by] the distinction between good and bad SSAs” (Enoch, 2001, 629). However, experimental studies indicate that people can *reliably* distinguish between good

¹² A critic of the meta-SSA might object that since the meta-SSA has a similar argument structure to ordinary SSAs (e.g. Enoch, 2001, 634), the proponents of the meta-SSA contravene their own prescription to avoid using SSAs, and so the meta-SSA is self-defeating. However, the proponents of the meta-SSA might deny that the meta-SSA is self-defeating in this sense. In particular, they might argue that the meta-SSA does not prescribe one to avoid using the meta-SSA, but only prescribes one to avoid using ordinary SSAs. I do not expand on this issue since my critical evaluation of the meta-SSA holds irrespective of whether one regards the meta-SSA as self-defeating in the sense just explicated.

SSAs and bad SSAs across a range of experimental settings (e.g. Corner and Hahn, 2007, Hahn and Oaksford, 2007). This result holds even in experimental settings where SSAs' differential strength is designed to be less evident than in real-life contexts (e.g. Corner et al., 2011, Haigh et al., 2016, on settings where the experimenters selectively manipulate both the probability and the acceptability of the predicted consequences). To be sure, the mere fact that people can reliably distinguish between good SSAs and bad SSAs does not *per se* vindicate their use of SSAs. For in practice, people may *fail* to distinguish between good SSAs and bad SSAs even if they are *able* to make such distinction. And people may reliably *distinguish* between good SSAs and bad SSAs, yet fail to *abide by* this distinction (e.g. Enoch, 2001). Still, vindicating the use of specific SSAs does not require one to identify a precise stopping point on the alleged slippery slope from good SSAs to bad SSAs. For one may justifiably use a given good SSA even in presence of a slippery slope from good SSAs to bad SSAs (point 3.2 below). Moreover, people reliably regard bad SSAs as less convincing than good ones, and often abide by such distinction (e.g. Corner and Hahn, 2007, Hahn and Oaksford, 2007). This, in turn, suggests that when people rely on bad SSAs, their reliance on bad SSAs is not generally (let alone always) due to their alleged inability to reliably distinguish between good SSAs and bad SSAs, but can be plausibly ascribed to factors pertaining to specific SSAs (e.g. net expected benefits derivable from using such SSAs in particular contexts).¹³

¹³ Not all the net expected benefits derivable from using a given SSA justify using such SSA (e.g. think of cases where using a bad SSA enables some lobbyists to promote policies that increase their own political influence while having disastrous consequences for population at large). Still, the point remains that when people rely on bad SSAs, their reliance on bad SSAs is not generally (let alone always) due to their alleged inability to reliably distinguish between good SSAs and bad SSAs.

A critic of SSAs may grant that people can occasionally distinguish between good SSAs and bad SSAs. Still, she may object that “every proponent of an SSA is committed to [the] assumption that [people] are bad at abiding by the relevant distinction” between acceptable and unacceptable actions, practices or policies (Enoch, 2001, 631; also Schauer, 1985, 361, Whitman, 1994, 88). Now, various SSAs posit a morally relevant distinction between A_I and A_n , and hold that people will likely fail to abide by such distinction (e.g. Jefferson, 2014, 674, Lewis, 2007, 198). Still, as noted in Section 2, not all SSAs posit a morally relevant distinction between A_I and A_n . Moreover, even in cases where there is a morally relevant distinction between A_I and A_n , various factors other than people’s inability to make or abide by such distinction can lead to slippery slopes (e.g. point 3.3 below on people’s multi-peaked preferences and on policy makers’ reliance on past legislative and judicial decisions). Hence, the alleged fact that A_I (likely) leads to A_n does not *per se* commit SSAs’ proponents to the assumption that people are bad at abiding by the relevant distinction between acceptable and unacceptable actions, practices or policies.¹⁴

3.2 Suppose, for the sake of argument, that using good SSAs often leads people to use bad SSAs. The hypothesized fact that using good SSAs often leads people to

¹⁴ A proponent of the meta-SSA might object that even if the alleged fact that A_I (likely) leads to A_n does not *per se* commit SSAs’ proponents to assuming that people are bad at abiding by the relevant distinction, those proponents of SSAs who do assume that people are bad at abiding by the relevant distinction are vulnerable to the meta-SSA. This objection invites at least two rejoinders. First, the objection provides limited support to the meta-SSA unless the proponents of the meta-SSA show that most proponents of SSAs actually assume that people are bad at abiding by the relevant distinction, and the proponents of the meta-SSA have hitherto failed to meet this justificatory requirement. And second, even if the proponents of the meta-SSA showed that most proponents of SSAs actually assume that people are bad at abiding by the relevant distinction, the point remains that the proponents of SSAs are not committed to assuming that people are bad at abiding by the relevant distinction.

use bad SSAs is one of the expected consequences of using SSAs. One should typically consider this expected consequence when deciding whether or not to use a given SSA.¹⁵ However, the hypothesized fact that using good SSAs often leads people to use bad SSAs does not *per se* exclude the possibility that one may justifiably use such SSA. For even if using good SSAs often leads people to use bad SSAs, several reasons may justify using a given good SSA (e.g. Corner and Hahn, 2007, on cases where the net expected benefits of using a given good SSA outweigh those of not using it). To be sure, the higher the probability that using good SSAs will lead people to use bad SSAs, and the worse the expected consequences of using bad SSAs, the stronger (*ceteris paribus*) one's justificatory reasons for using *specific* SSAs must be to vindicate using such SSAs. Still, the hypothesized fact that using good SSAs often leads people to use bad SSAs falls short of licensing the meta-SSA's conclusion that people should avoid using SSAs *altogether*.

Faced with these considerations, a critic of SSAs may grant that the meta-SSA does not *per se* provide a decisive reason against using SSAs altogether. Still, she may object that unless SSAs' proponents address the challenge posed by the meta-SSA - i.e. show that people "are more likely to fail to abide by the distinction between [acceptable and unacceptable actions, practices or policies] than the one between

¹⁵ I say 'typically' (rather than 'always') since in some cases one may have reasons not to consider such expected consequence when deciding whether or not to use a given SSA (e.g. the proponent of a given SSA may be neither morally nor legally required to consider the expected consequences of using SSAs across several contexts). A critic of SSAs may disagree on the alleged ground that "SSAs are arguments from consequences [and that when assessing] arguments from consequences, it seems like a mistake of practical reasoning to include only some of the consequences" (Enoch, personal correspondence). I mention this potential disagreement in passing since my evaluation of SSAs does not directly rest on what position one takes regarding such potential disagreement.

good and bad SSAs” (Enoch, 2001, 640) - the meta-SSA undermines people’s justification to use even good SSAs. As Enoch puts it, “it’s true in general that in order for your relying on an argument to be justified, it’s not required that you be able to defeat all possible defeaters to it. [...] Still, once the possible defeater is there, [you have to provide] what it takes to defeat it” (personal correspondence). This objection correctly notes that SSAs’ proponents have to vindicate their use of SSAs if they are to justifiably rely on SSAs. However, it does not demonstrate that unless SSAs’ proponents address the challenge posed by the meta-SSA, the meta-SSA undermines people’s justification to use even good SSAs. In particular, such objection presupposes (rather than shows) that vindicating the use of any given (including good) SSAs requires the proponents of SSAs to show that people “are more likely to fail to abide by the distinction between [acceptable and unacceptable actions, practices or policies] than the one between good and bad SSAs” (Enoch, 2001, 640). Moreover, the considerations put forward in this section (points 3.1-3.3) provide several reasons to doubt that the meta-SSA undermines people’s justification to use even good SSAs. Taken together, these reasons challenge the proponents of the meta-SSA to demonstrate that unless SSAs’ proponents address the challenge posed by the meta-SSA, the meta-SSA undermines people’s justification to use even good SSAs.

3.3 My third reason to doubt that the meta-SSA provides convincing reasons against using SSAs altogether builds on the facts that a *variety* of legal, political and psychological *mechanisms* can demonstrably lead to slippery slopes in real-life contexts and that these mechanisms’ tendency to lead to slippery slopes *varies remarkably* across such contexts. More specifically, in points 3.3.1-3.3.3 below I

identify three types of mechanisms that frequently lead to slippery slopes in real-life contexts. I then build on the contextual variability of these mechanisms' tendency to lead to slippery slopes to demonstrate that both the strength of SSAs and the justifiability of using SSAs are best assessed on a case-by-case basis. To be sure, the mechanisms identified below often tend to increase not just the likelihood of slippery slopes, but also people's propensity to endorse bad SSAs (e.g. Enoch, 2001). These mechanisms' influence on people's propensity to endorse bad SSAs suggests caution in relying on SSAs. However, it does not license calls against using SSAs *altogether* unless one shows that such influence *generally* bears more heavily on people's propensity to endorse bad SSAs than on the likelihood of slippery slopes. And, as I argue below, the critics of SSAs have hitherto failed to address this justificatory challenge.¹⁶

3.3.1 Slippery slopes frequently arise when the concepts figuring in the relevant debates are *vague* (e.g. Fumagalli, 2018, McMahan, 1995, on the concept of personhood figuring in bioethical debates about abortion and euthanasia; also Hausman and Welch, 2010, Satz, 2008, on the concept of voluntariness figuring across distinct public policy debates). Slippery slopes are more likely to arise in presence of vague (rather than precise) concepts, because vague concepts make it difficult for people "to say where the dividing line is between [acceptable and

¹⁶ Identifying in virtue of what mechanisms A_1 likely leads to A_n often helps the proponents of SSAs to vindicate their use of SSAs (e.g. Oakley and Cocking, 2005, Volokh, 2003). Conversely, failing to identify such mechanisms frequently hampers the ability of SSAs' proponents to vindicate their use of SSAs (e.g. LaFollette, 2005; also Battin, 1994, 165, for the claim that one can counter various SSAs by showing "that they fail to specify what causal mechanisms [are] involved"). Still, one may justifiably use a given SSA even if she lacks a detailed account of the mechanisms by which A_1 likely leads to A_n . For in some cases, one may have convincing empirical evidence that A_1 likely leads to A_n even if she cannot establish in virtue of what mechanisms A_1 likely leads to A_n (e.g. Rizzo and Whitman, 2009).

unacceptable actions, practices or policies]” (Rizzo and Whitman, 2003, 542; also Holtug, 1993). Moreover, people tend to lump conceptually dissimilar actions, practices or policies into the same categories in presence of vague conceptual boundaries (e.g. Metz, 2013, Rosch and Mervis, 1975). In this respect, a proponent of the meta-SSA may well identify cases “where a term is vague but we’re still good at making - and abiding by - the relevant distinction” (Enoch, 2001, 644). Yet, the point remains that in presence of vague conceptual boundaries, classifying some action, practice or policy under a given category (e.g. morally permissible) can significantly increase the probability that further actions, practices or policies are classified under the same category (e.g. Nosofsky, 1988, Oaksford and Chater, 2010). These categorization effects, in turn, frequently lead to slippery slopes in real-life contexts where the relevant concepts have vague conceptual boundaries (e.g. Corner et al., 2011, Hahn and Oaksford, 2006, Rizzo and Whitman, 2009).¹⁷

3.3.2 Slippery slopes frequently arise when people lack (or find it difficult to identify) *non-arbitrary demarcation lines* between acceptable and unacceptable actions, practices or policies (e.g. Lode, 1999, Williams, 1985). People may lack (or find it difficult to identify) such demarcation lines not just because of the vagueness of the concepts figuring in the relevant debates (point 3.3.1 above), but also because of the difficulty of evaluating the acceptability of the examined

¹⁷ In some real-life contexts, the available policy options may be placed on a continuum, with the optimal policy being located on a to-be-specified point (or interval) on such continuum. In such contexts, policy makers may be able to determine whether the policy they implement deviates from the optimal policy, and might be able to correct for any deviation before such deviation leads to slippery slopes. Still, pointing to these potential corrections does not *per se* alleviate concerns about the likelihood of slippery slopes. For in real-life contexts, policy makers often lack the incentives and/or the ability to determine whether the policy they implement deviates from the optimal policy and correct for any deviation before such deviation leads to slippery slopes (e.g. Fumagalli, 2016, Rizzo and Whitman, 2003).

actions, practices or policies. In fact, people often lack (or find it difficult to identify) non-arbitrary demarcation lines between acceptable and unacceptable actions, practices or policies. This frequently happens in legal and policy settings, where various legal and policy regulations are arbitrary (e.g. Rizzo and Whitman, 2009, on the arbitrariness of regulations targeting continuous variables like age and IQ). To be sure, existing legal and policy regulations may enable one to draw sharp demarcation lines between putatively acceptable and unacceptable actions, practices or policies (e.g. think of age-related legal requirements for consenting to surgical treatment). And such lines, once drawn, may enable one to avoid or resist slippery slopes (e.g. think of the intertemporal stability of age-related legal requirements for consenting to surgical treatment). Yet, the sharpness of a demarcation line guarantees neither that this line reliably tracks morally relevant distinctions nor that this line enables one to avoid or resist slippery slopes (e.g. Fumagalli, 2018, McMahan, 2013, on bioethical debates about abortion and euthanasia where people agree that a sharp line is needed but disagree as to where exactly the sharp line is to be drawn). Moreover, sharp demarcation lines are often ignored or violated in cases where they are regarded as arbitrary or are declaredly drawn for the sole reason that a sharp line is needed (e.g. Den Hartogh, 2009, for illustrations).¹⁸

¹⁸ In some cases, it may be reasonable to draw a sharp demarcation line even if one lacks (or finds it difficult to identify) a cogent reason to draw such line at any specific point (e.g. Jones, 2011, 385; also Williams, 1985, 219, for the claim that one may reasonably draw a sharp demarcation line when the only way to distinguish acceptable and unacceptable actions is to draw a sharp line). Still, in general, the alleged reasonableness of drawing a sharp demarcation line guarantees neither that this line reliably tracks morally relevant distinctions nor that such line enables one to avoid or resist slippery slopes (see also point 3.3.3 below on the contrast between reasonable and effective distinctions).

3.3.3 Legal, political and psychological mechanisms may lead to slippery slopes even *in presence* of non-arbitrary demarcation lines between acceptable and unacceptable actions, practices or policies (e.g. Fumagalli, 2016, Rizzo and Whitman, 2003). To see this, consider the often-made contrast between *reasonable* distinctions, i.e. distinctions for which “there is a decent argument”, and *effective* distinctions, i.e. distinctions that “as a matter of social or psychological fact” can be successfully upheld (Williams, 1985, 214). The mere fact that some distinction is reasonable in this sense falls short of indicating that such distinction is effective.¹⁹ This does not exclude the possibility that people are able to avoid or resist various slippery slopes by appealing to reasonable distinctions (e.g. Douglas, 2010, on cases where the unacceptability of hypothetical future policies provides reason to doubt that these policies will be implemented). Still, several legal, political and psychological mechanisms can hamper (or even undermine) the effectiveness of reasonable distinctions, thereby leading to slippery slopes. To give one example, policy makers’ reliance on past legislative and judicial decisions frequently leads them to implement controversial policies because they take past decisions to give them reason to implement such policies (e.g. Hahn and Oaksford, 2006, Jones, 2011, for illustrations). Similarly, implementing moderate policies often leads policy makers to implement more extreme policies due to people’s multi-peaked preferences (e.g. Volokh, 2003, on cases where people’s multi-peaked preferences lead to slippery slopes because implementing moderate policies

¹⁹ The opposite may also be the case, i.e. an effective distinction may fail to be reasonable (e.g. van der Burg, 1991, on distinctions based on prejudice). Still, as noted in point 3.3.2, distinctions’ effectiveness tends to decrease when people regard such distinctions as unreasonable. Moreover, cases of ineffective distinctions (whether reasonable or unreasonable) abound. Hence, pointing to cases of effective unreasonable distinctions does not *per se* provide cogent reasons to think that people will be generally able to avoid or resist slippery slopes.

such as the introduction of video cameras in public spaces to deter crime greatly reduces the socio-economic costs of implementing more extreme policies such as intrusive surveillance involving facial recognition technology).²⁰

4. Conclusion

Several instances of empirically ill-founded and logically fallacious SSAs have been put forward in the philosophical literature across bioethics, law, politics and public policy. The availability of empirically ill-founded and logically fallacious SSAs - together with the alleged existence of a slippery slope leading to such SSAs - challenges SSAs' proponents to vindicate their use of SSAs by showing that the SSAs they put forward are logically valid and provide cogent reasons (or evidence) for the views they defend. However, it by no means licenses the often-made claim that people should avoid using SSAs altogether. For one can find many instances of good SSAs, and people can reliably distinguish (and abide by the distinction) between good SSAs and bad SSAs. Prominent calls to avoid using SSAs altogether do not withstand scrutiny. Both the strength of SSAs and the justifiability of using SSAs are best assessed on a case-by-case basis.

²⁰ I lack the space here to expand on the details of the examples cited in this paragraph. Still, by way of illustration, consider Volokh's (2003, 1043-1050) discussion of how people's multi-peaked preferences may lead to a slippery slope from the introduction of video cameras in public spaces to deter crime to the implementation of more intrusive surveillance policies involving facial recognition technology. Many people support the introduction of video cameras in public spaces to deter crime, but oppose more intrusive surveillance policies involving facial recognition technology. Yet, once policy makers invest in the introduction of video cameras, the socio-economic costs of implementing more intrusive surveillance policies significantly decrease. This, in turn, will likely incline policy makers to implement more intrusive surveillance policies that many people previously opposed (e.g. Hare, 2019, Mozur, 2018, on the fast-growing implementation of surveillance policies involving facial recognition technology across different countries).

Biographical Note

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