Pragmatic Maxims and Presumptions in Legal Interpretation

FABRIZIO MACAGNO, DOUGLAS WALTON, GIOVANNI SARTOR

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ABSTRACT. The fields of linguistic pragmatics and legal interpretation are deeply interrelated. The purpose of this paper is to show how pragmatics and the developments in argumentation theory can contribute to the debate on legal interpretation. The relation between the pragmatic maxims and the presumptions underlying the legal canons are brought to light, unveiling the principles that underlie the types of argument usually used to justify a construction. The Gricean maxims and the arguments of legal interpretation are regarded as presumptions subject to default used to justify an interpretation. This approach can allow one to trace the different legal interpretive arguments back to their basic underlying presumptions, so that they can be compared, ordered, and assessed according to their defeasibility conditions. This approach allows one to understand the difference between various types of interpretive canons, and their strength in justifying an interpretation.

I. INTRODUCTION

This paper addresses the problem of designing a model of legal interpretation in which the different interpretive canons used in legal theory can be integrated within a broader linguistic theory (Smolka and Pirker 2016). Several approaches to statutory interpretation (see for instance, Tarello 1980; Hutton 2009, pp. 74–79; MacCormick 1995, 2005; MacCormick and Summers 1991; Guastini 2011) advance sets of interpretive arguments (or canons – or maxims – of construction), which are framed as isolated arguments militating for or against a given interpretation. Such arguments, however, are not related to any linguistic framework of interpretation, and appear as independent and unconnected instruments that judges and legal practitioners can use to either support or rebut an interpretation. The goal of this paper is to build on the modern theories of pragmatics (Levinson 2000; Atlas 2007) and argumentation (Walton et al.

2016; Macagno et al. 2014), developing a framework of linguistic interpretation within the structure of an inference to best explanation (Atlas and Levinson 1981). We will show how, in this framework, the possible interpretations are grounded on presumptions, which can be classified using Gricean pragmatic presumptions and to which the interpretive canons can be connected. We will illustrate how Gricean pragmatic presumptions, and more importantly the argumentative distinction between levels of presumptions, can produce an integrated conception of statutory interpretation in which the different maxims and cannons of statutory interpretation are no longer seen as isolated arguments militating for or against a given interpretation. This approach can allow the analyst (or more generally a legal practitioner involved in an interpretive discussion) to understand the presumptions underlying the various interpretive arguments, and to compare and order them hierarchically.

II. PRAGMATICS AND ARGUMENTATION THEORY IN STATUTORY INTERPRETATION

The possibility of developing a pragmatic framework for legal interpretation is rooted in the argumentative dimension of interpretive reasoning, and on the pragmatic dimension of legal communication and legal texts.

A. Interpretation as Argumentative Reasoning

Legal interpretation, broadly understood as the attribution of a meaning to a legal source, is argumentative in two respects, since interpretation is both the output and the input of legal argumentation. On the one hand, when the meaning of the legal source at issue is controversial in a specific context, the interpretations advanced by the various parties to the interpretive discussion need to be supported though appropriate reasons (Dascal and Wróblewski 1988, p. 204). For instance, in the case *Dunnachie v. Kingston-upon-Hull City Council* (see MacCormick 2005), the issue concerned whether the term 'loss' in article 117 the Employment Rights Act only referred to economic losses, or rather included also emotional loss. To determine the correct interpretation of this term, the judges used various

interpretive arguments, backed by references to legislative history, the labor law system, and the intentions of the legislator.

On the other hand, interpretive decisions provide the input to classificatory arguments aimed at applying the law to specific cases (Walton and Macagno 2009). This type of reasoning is used when a legal rule, obtained by reconstructing the meaning of the relevant legal sources, needs to be applied to the particular case at issue. For instance, the argument according to which an unjustly dismissed employee, Mr. Jones, has no right to be compensated for emotional 'loss', is based on a legal rule according to which workers unjustly dismissed are entitled to compensation only for *pecuniary* loss. In the law of the United Kingdom, this rule was obtained by interpreting the term 'loss' in article 117 of the Employment Right Act of 1996 as excluding emotional loss (case discussed in MacCormick 2005).

In interpretive legal disputes, the implicit and presumptive reasoning that is commonly used in interpreting texts (Slocum 2015, p. 213) needs to be represented in terms of argumentative reasons advanced pro and against a given meaning attributed to the text (Perelman 1976). Interpretive argumentation is indeed 'a particular form of practical argumentation in law, in which one argues for a particular understanding of authoritative texts or materials as a special kind of (justifying) reason for legal decisions' (MacCormick 1995). The specific characteristics of this specific type of argumentation can be pointed out by considering the linguistic (pragmatic) dimension of interpretation.

B. The Pragmatics of Legal Interpretation

Pragmatics addresses the relationship between the linguistic code (the linguistic means used in the interaction), the producers-interpreters of the code, and the context of the interaction (Kecskes 2013). In the most general definition, pragmatics focuses 'on how meaning is shaped and inferred during social interaction'. In linguistic-philosophical pragmatics, the core of communication is the speaker's intention (meaning), as it is recognized and reconstructed through pragmatic inferences that are the focus of linguistic investigation (Kecskes 2013; Capone 2013). The discrepancy between sentential (semantic and syntactic) meaning and utterance meaning is bridged

by pragmatic processes that involve enrichment (Butler 2016a), disambiguation (Horn 1995), and implicatures (Sinclair 1985; Miller 1990; Atlas 2005).

The pragmatic analysis of statutory texts rests on a basic presupposition, namely that the processes governing the relationship between sentential meaning and utterance (speaker's) meaning in ordinary conversation can also apply to legislative speech (Smolka and Pirker 2016). Conversation and legislation have in common that in both cases: (1) language is used; (2) communication is confined by topic or subject matter; and (3) utterances are purposive, namely their interpretation is constrained by considering the purpose of the speaker. However, the use of pragmatic principles for reconstructing the meaning of a piece of legislation has relevant peculiarities, since legislative speech is one-sided (there is nobody who can immediately answer back), and legislative utterances are not truth-functional. To summarize, legislative communication 'must wear its discoursive heart on its sleeve' (Sinclair 1985). Despite the differences between the two types of communication, the pragmatic principles (even though adapted and modified accordingly) constitute a dimension of rationality which is necessary for the understanding of legal texts (Sinclair 1985):

> All the pragmatic maxims for statutes are justified in the same way. It is reasonable that a legislature should act in accordance with them; they are among the characteristics of rationality in legislation. From the point of view of the ''hearer'' - the reader of a statute-the propriety of the maxims is a precondition to the possibility of sensibly understanding, making use of, and guiding behavior by legislative speech. Being pragmatic constraints, they in fact may be violated on occasion, but the entire enterprise of legislation would fail if they were to be generally disregarded.

This (imperfect and partial) correspondence between ordinary and legal communication and the central importance of pragmatics in understanding and interpreting texts leads to the problem connecting the studies in linguistic pragmatics with the theories of legal interpretation.

The theoretical framework that seems to best bridge the two fields of studies is the three-layered analysis of communication of Levinson (Levinson 2000, p. 93), complemented by the idea of inference to the best interpretation. Levinson distinguishes between: (1) sentence meaning, based on grammar; (2) utterance type mean-

ing, based on general expectations about how language is normally used; (3) speaker meaning, based on nonce (once-off) inferences made in actual contexts by actual recipients with all of their rich particularities. The construction of the utterance-type meaning is based on generalised conversational implicatures, namely, implicatures that hold 'unless unusual specific contextual assumptions defeat them'. On the contrary, the construction of speaker meaning is based on specific contextual information that would 'not invariably or even normally obtain'.

As an example of a generalised conversational implicature, consider the heuristics according to which statements matching the pattern 'some *X* are *Y*' defeasibly licences the implicature 'not all *X* are *Y*'. This implicature is to be retracted given the information that all *X* are *Y*, an assertion that is consistent with statement, 'some *X* are *Y*', but contradicts the implicature, 'not all *X* are *Y*'. For instance, the statement 'some guests have left' defeasibly licenses the implicature 'not all guests have left'. The implicature however is defeated by a subsequent precisation 'yes, indeed all guests have indeed left', which is consistent with the previous statement, but contradicts the implicature. Similarly, in the normative domain, the statement that 'action *X* is permitted' implicates that also that 'the omission of *X* is permitted'. Had the *X* omission not been permitted, then one would have stated that *X* is obligatory. For instance, the statement 'it is permitted to bring the computer in the classroom', implicates that is also permitted not to bring it. Had the professor meant that bringing the computer was compulsory, she would have stated that explicitly.

As an example of a particularised implicature, let us consider how the statement 'some guests have left' may implicate 'it is late'. This implication only works in particular contexts (for example, an evening dinner). Also particularised implicatures are defeasible, since they may be rejected, while retaining their premises, on the basis of further information (for example, the clock shows that it is still early, there was a fight among the guests, and so this must have been the reason for some of them to leave).

Our focus will be on the utterance type meaning, and in particular on the idea that the hearer, and in particular the addressee of legal sources, draws implicatures by using generalized heuristics, in other words, defeasible inference patterns, corresponding to stereotypical

instantiations of the utterance. We will assume that such heuristics can be explained by using (variants of) Grice's maxims (Miller 1990; Sinclair 1985). The fact that such inferences are defeasible does not make them irrelevant, since they hold as long as prevailing incompatible information is not provided. In other words, they indicate *prima-facie* interpretations (Jaszczolt 2005; Huang 2007; Mey 2001; Simons 2013) that carry a burden of disproof on the party that challenges it.

C. Where Pragmatics and Argumentation Meet: Inference to the Best Interpretation

Atlas and Levinson (1981) complement the idea that interpretation is governed by heuristics leading to conversational implicatures with the idea that when different possible interpretations are available (in other words, when doubts arise), then preference should go to the 'best interpretation'. An interpretation can be considered the best one when it best 'fits' both the shared background presumptions in the context and the communicative intention attributable to the speaker in the light of 'what he has said' (Atlas and Levinson 1981, p. 42). Thus, on the one hand, conversational implicatures constrain the search for abductive explanations, avoiding time-consuming critical assessments of alterative interpretation. However, on the other hand, in case of unsolved conflicts between incompatibles heuristics, a critical process of interpretation is needed, which can be represented as the inference to the best interpretation (Macagno and Walton 2013; Macagno 2012).[1] For instance, let us assume that interpretation of 'loss' as pecuniary loss is indicated by the heuristics that commands the ascription of stereotypical meanings. This provides us with a convenient interpretation that is also an explanation of why the legislator used the word 'loss' without further specification: the legislator presumably did so exactly in order to convey the meaning of pecuniary loss (given this stereotypical background,

[1] Our notion of 'best interpretation' does not coincide exactly with the use of the notion of 'best interpretation' in interpretivist legal theory (Dworkin 1986), where the 'best interpretation' is the one that best balances the need to fit the legal material and to puts the law in its best light (which includes contributing to values of political morality). Our analysis is rather meant to provide the interpretation that better captures the pragmatic meaning of the legislative communication, considering the alternative interpretations and their defeasibility conditions.

had the legislator wanted to address also non-pecuniary losses, he would have included a corresponding specification).

In order to analyze this type of inference, various logical models for defeasible reasoning have been provided over the years (for a review, see Levinson 2000). All of them provide for non-monotonic inference, namely, reasoning processes where by adding additional information to an available set of premises, some defeasible conclusions of the original set may no longer hold. On our approach, the 'best interpretation' is modelled by using defeasible argumentation (Walton 2011; Walton et al. 2016). The idea is that an argument that defeasibly supports a conclusion can also be attacked without challenging its premises, in other words, by providing a stronger arguments having an incompatible conclusion or by arguing that, in the particular case at stake, the argument's premises fail to support its conclusion (Pollock 1987).

For example, let us consider again the implicature from 'some guests are leaving' to 'not all guests are leaving', which can be viewed as an instantiation of Grice's first principle of quantity (make your contribution as informative as required). This implicature will be understood as an argument that, given (a) the statement 'some guests are leaving', and (b) the defeasible heuristics 'if it is stated that some *X* are *Y* then presumptively it is meant that not all *X* are *Y*' supports the defeasible conclusion that 'not all guests are leaving'. This inference could be defeated by the additional statement (the counterargument) that 'all guests are leaving', which undercuts the inference, as in this particular situation (all are leaving), the original premise (some are leaving) no longer supports the conclusion (not all are leaving).

Grice's defeasible heuristics can be used to explain the interpretation of our running example, the 'loss' case. The second maxim of quantity, 'Do not make your contribution more informative than is required', can be considered as underlying the inference to the stereotypical meaning. In our case, considering that the term 'loss' is stereotypically used to mean *financial* (or *material*) loss, the reader can interpret the provision, 'the amount of the compensation shall be such as the tribunal thinks fit having regard to the *loss* sustained by the complainant…' as referring to *financial* loss. The defeasible reasoning can be represented as follows:

(a) The provision claims that, 'losses consequent to unfair dismissals have to be compensated';
(b) Stereotypical losses have a financial or material nature;
(c) Words are generally to be understood as addressing stereotypical cases;
(d) Therefore, the statement shall be read as stating that, 'only financial or material losses have to be compensated'.

This reasoning is clearly defeasible, as it can be objected that in labor law the stereotypical meaning can be different, or within the context the first maxim applies instead (if the legislator had intended a narrow meaning, he would have said so).

III. *PRIMA-FACIE* AND DELIBERATIVE INTERPRETIVE REASONING

The heuristics and the legal canons of interpretation can be investigated within an argumentative approach. We can distinguish two ways of getting to an interpretation. The interpretation may be obtained directly, without consciously addressing doubts and assessing alternatives, or it may be obtained dialectically, namely, by assessing the reasons for and against adopting the chosen interpretation, and the defeasibility of other possible interpretations. Thus, we may distinguish the following two kinds of interpretive reasoning:

(1) *Prima facie* interpretive reasoning, which attributes directly, through uncritical computation, a *prima-facie* meaning to the utterance at issue;
(2) *Deliberative* interpretive reasoning, which intervenes:

a. when *prima facie* interpretive reasoning fails to provide a single, undoubted output, namely, when no *prima-facie* meaning is obtained directly; or
b. when multiple incompatible *prima-facie* meanings are provided; or
c. when the *prima-facie* meaning fails to satisfy immediately the concerns of the interpreter, so some doubts need to be addressed (Kennedy 2007, pp. 303–4).

Some authors prefer to use the term 'interpretation' in a broader sense, to cover both kinds of reasoning, while other prefer to use it in a more restrictive sense, covering only the second. The first position is advocated by Tarello and Guastini (Tarello 1980; Guastini 2011), according to whom an interpretation is the necessary step

leading from a sentence in a legal text to a rule (the meaning). On this perspective, there are no rules of law (obligations, prohibitions…) without interpretation.

Others prefer to use the term 'understanding' (Patterson 2004) or 'direct understanding' (Dascal and Wróblewski 1988), to refer to *prima-facie* intepretive reasoning, while the term 'interpretation' is intended to mean critical acription of meaning. According to the latter position, which underlies the traditional saying that 'in clear things, no interpretation takes place' (*in claris non fit interpretatio*), interpretation only covers the argumentative process that is aimed at resolving a doubt concerning the meaning of a text. For instance, Dascal and Wróblewski (1988, p. 204) define interpretation *stricto* sensu as 'an ascription of meaning to a linguistic sign in the case its meaning is doubtful in a communicative situation, i.e. in the case its 'direct understanding' is not sufficient for the communicative purpose at hand'.

According to Dascal and Wroblewski, clarity is a pragmatic notion, corresponding to the state in which no reasonable doubt can be raised concerning the meaning of the text (Dascal and Wróblewski 1988, p. 214). A text can be clear from the beginning, or clarity may be achieved at a subsequent point through interpretive arguments. In cases of unclarity, namely when there is an 'eventual 'mismatch' between the 'computed' utterance-meaning and some contextual factor' resulting from the background or the specific case to which the law is applied (Dascal and Wróblewski 1988, pp. 213, 216), the interpretation needs to be justified.

Considering the argumentative nature of interpretation, the challenge is to provide a framework for assessing interpretive argument, namely a theoretical model in which the various and unrelated legal canons and the pragmatic maxims can be regarded in terms of defeasible reasons, grounded on different types of presumptions. In the sections below we will show how it is possible to outline an argumentative framework for analyzing interpretation building on the notion of a non-monotonic and abductive mechanism of reasoning from best interpretation (Atlas 2008; Atlas and Levinson 1981; Dascal 2003, p. 635). The structure of this type of reasoning can be explained using presumptive micro-arguments (Macagno and Capone 2016). The interpreter needs to assess the

possible alternative explanations, or interpretations, of the evidence consisting of the utterance, the context, and the common ground. To this end, the alternatives are compared and evaluated through considering the presumptions it conflicts with (Macagno et al. 2014).

IV. THE PRAGMATICS OF INTERPRETATION

The interpretation of a statement of law guarantees the inferential passage from a text (a legal text or statement) to its meaning (a rule of law). It can be analyzed as an instance of natural language interpretation aimed at retrieving what the text was intended to mean (namely the 'objectified' speaker's meaning) (Skoczeń 2016, p. 624; Grice 1975). As mentioned above, this reconstruction can lead to a *prima-facie* interpretation that is reached by implicitly relying on uncontroversial common expectations about language and regarding the utterance as expressed in a stereotypical context (Huang 2007, pp. 292–293). However, this 'utterance type' is defeasible at various levels. The '*prima-facie*' interpretation of indexicals and lexical items (Mel'cuk 1997; Macagno 2011, 2012; Hamblin 1970) can differ from the intended use thereof. Sentence types (such as declarative, interrogative, expressive, etc.) can be used to perform speech acts different from the ones prototypically associated with them (Capone 2010; Kecskes and Zhang 2009; Kecskes 2013; Kissine 2012). In this sense, the preferential and prototypical uses of linguistic elements or syntactic constructions can be considered as facilitating the reconstruction of what is meant, but they are always subject to defeat.

The *prima-facie* and deliberative processes of interpretation can be explained using a well-known example in both legal theory and pragmatics, the sign in front of Lincoln Park (Horn 1995, p. 1146):

All vehicles are prohibited from Lincoln Park.

Based on the commonly shared definition of 'vehicle' and the ordinary expectations about language, this statement can be interpreted *prima-facie* as follows (understanding): 'entities having wheels and used for the transportation of people are prohibited from Lincoln Park'. In a prototypical context, characterized by specific background assumptions (Searle 1985, p. 135), the presumptive reasoning leading to the default explanation can be accepted or considered as acceptable. However, sometimes the actual context is

different from the stereotypical one characterizing the 'utterance-type'. For example, push scooters of children may not count as vehicles as one foot continues to touch the ground; a wheel chair of a disabled person may not count as a vehicle, given its function of providing a person mobility aid. In other cases, the *prima-facie* interpretation is subject an exception. For example, while it is hard to deny that an ambulance is a vehicle, it may still be argued the prohibition does not apply to ambulances when deployed in emergencies.

In such cases, the presumptive inference providing the *prima-facie* interpretation of the text can be challenged and lead to a dialectical reconstruction of meaning, grounded on an analysis of the possible alternative interpretations. The whole structure of the reasoning process underlying interpretation (*strictu* sensu) can be summarized in the following sequence of actions:

1. A statement is used within a specific context, leading to a *prima-facie* understanding.
2. A doubt is raised; namely, it is shown that the *prima-facie* understanding is somehow inadequate.
3. The doubt leads to the search for alternative meaning.
4. The various candidate interpretations are assessed, examining pros and cons of each of them.
5. An interpretation is selected as the best one.

When the semantic meaning (legal text) is vague or ambiguous, so that understanding delivers alternative clues, or when it needs to be applied to a specific case instantiating reasons for *not* using the *prima-facie* meaning, the *prima-facie* interpretation is subject to defeat. The *prima-facie* meaning thus becomes one of the possible interpretations. As a consequence, it is compared with the alternatives, and is assessed, challenged, and eventually accepted or rejected. In the example above, the *prima-facie* meaning of 'vehicles' is subject to defeat when the statement of law needs to be interpreted and applied to the specific case of ambulances. Can a law be unreasonable and protect a value (safety; peace and quiet) that is less important than human life? This circumstance and the presumption that the law shall not lead to absurd results (Brewer 2011, p. 114) defeats the *prima-facie* meaning (Hutton 2009, pp. 72–73). Thus, the interpreter looks for

alternative explanations of meaning ('unauthorized transportation means'; 'transportation means with an engine'; etc.). The least controversial interpretation – namely the one that is comparatively less conflicting with countering presumptions and more fully supported by favorable presumptions – is chosen as the most acceptable one.

The distinction between *prima-facie* and deliberative interpretation is relevant in law as it involves the allocation of the burden of argument. An unchallenged *prima-facie* interpretation (understanding) does not involve a burden of argument, as it holds until it is challenged. Should the *prima-facie* interpretation be questioned without bringing a reason against it, it may be supported by pointing to some heuristics underlying it (for example, an appeal to stereotypical meaning). However, if an alternative interpretation is proposed, based on a different heuristic or on an alternative non-prototypical context, the *prima-facie* interpretation becomes only one of the possible interpretations. As such, it becomes considered as potentially controversial and needs to be grounded in arguments. The various arguments advanced to support an interpretation need to defeat the other possible alternatives. They need to show that the advocated explanation of meaning is better (more adequate, more suitable) than the others.

V. REASONING FROM BEST INTERPRETATION AND ARGUMENTATION SCHEMES

The distinction between *prima-facie* and deliberative interpretation has a psychological (Jaszczolt 2006, p. 201; Wilson 2005) and a dialogical foundation (Prakken and Sartor 1996), since the transition from the first to the second takes place as soon as plausible doubts or alternatives are raised. However, it also has a logical aspect that can be addressed by analyzing the inferential and dialectical relations involved in the two interpretive processes.

The interpreter will be satisfied with a *prima facie* interpretation when the information available leads the interpreter directly to a single unquestioned output, according to the semantic meaning of the expression, coupled with the relevant interpretive heuristics. Critical interpretation is needed when additional and distinct

heuristics, or specific reasons, are applicable, resulting in conflicting interpretations or potential flaws of the *prima-facie* output.

To this purpose, the developments in pragmatics can be integrated using the tools of argumentation theory (Walton 2002). A specific current within argumentation investigates the structures of defeasible arguments, namely arguments not proceeding from the meaning of quantifiers or connectors only, but from the semantic relations between the concepts involved. This account, rooted in Toulmin's notion of warrant (Toulmin 1958; Toulmin et al. 1984), aims to represent the combination between a semantic principle (such as classification, cause, consequence, authority) and a type of reasoning, such as deductive, inductive or abductive reasoning. Such patterns of argument are called argumentation schemes (Walton et al. 2008; Macagno and Walton 2015) and can be used to bring to light the different inferential structures, defeasibility conditions, and dialectical effects of the inferences characterizing interpretation.

Prima-facie interpretation can be conceived of as the inferential and automatic association between an utterance and its communicative effects. Interpretive heuristics, which underlie the implicatures that are stereotypically triggered in a communicative setting (Atlas 2005; Levinson 1983), can be viewed as inference schemes, allowing for defeasible reasoning (Levinson 2000; Atlas and Levinson 1981; Walton 1995; Macagno and Walton 2014). Such schemes have the following structure (Rescher 2006, p. 33):

Premise 1: *P* (the proposition representing the presumption) obtains whenever the condition *C* obtains unless and until the standard default proviso *D* (to the effect that countervailing evidence is at hand) obtains (Rule).

Premise 2: Condition *C* obtains (Fact).

Premise 3: Proviso *D* does not obtain (countervailing evidence is not at hand) (Exception).

Conclusion: *P* obtains.

In this pattern, the inference scheme (a heuristic, in Levinson's terms) is distinguished from the conclusion itself (the implicature), which obtains in case contrary evidence is not provided. In particular, the scheme leads to a meaning ('what is meant') that is a proposition compatible both with assumptions in the context and with 'what is said' (Atlas 2005, p. 91). The

presumptive meaning is guided by two basic complementary meta-presumptions (Atlas 2005, p. 91):

> *Speaker-centered:* Do not say what you believe to be *highly* noncontroversial – that is, to be *entailed* by the presumptions of the common ground in context K.
> *Hearer-centered:* Take what you hear to be *lowly* noncontroversial – that is, *consistent* with the presumptions of the common ground in context K.

When such presumptions, usually operating as unconscious computations, do not lead to a single unquestioned outcome, it is necessary to assess the reasons underlying the conflicting interpretations, including the grounds of the meaning obtained presumptively.

On this perspective, the mechanisms (including primarily Grice's maxims and Neo-Gricean heuristics) underlying the processing of implicit or incomplete meaning, are made explicit and represented as defeasible arguments in favor of one interpretation over another. This representation of the processing and assessment of the possible interpretations can be modeled by integrating the presumptive arguments with reasoning from the best interpretation, which can be viewed as an instance of the more general pattern of reasoning from the best explanation (Atlas and Levinson 1981). In argumentation theory, this type of reasoning is represented by the following nonmonotonic (Oaksford and Chater 1998, p. 131) and abductive structure (Walton et al. 2008; Macagno and Capone 2016; Walton 2002; Harman and Lipton 1992; Harman 1965; Fodor 1983; Macagno and Walton 2014):

Premise 1	F (an utterance) is an observed event
Premise 2	E_1 is a satisfactory ascription of meaning to F
Premise 3	No alternative interpretations $E_{2\ldots n}$ given so far is as satisfactory as E_1
Conclusion	Therefore, E_1 is a plausible interpretation, based on what is known so far

In particular, in cases of interpretation, the 'bestness' of an explanation (an interpretive hypothesis)[2] can be established according to the pragmatic principle of informativeness (Atlas and Levinson 1981, pp. 40–41; Atlas 2005, p. 95):

> Suppose a speaker S addresses a sentence A to a hearer H in a context K. If H has n competing interpretations U_i ($1 \leq i \leq n$) of A in the context K with… information contents $INF(U_i)$, and $G^{H}_{A,K}$, is the set of propositions that H takes to be noncontroversial for S in K with respect to A at the stage in the conversation at which A is uttered, then the "best" interpretation $U^{\star}$ of A for H in K is the most informative proposition among the competing interpretations U_i that are consistent with the common ground CG_K in the context and with the noncontroversial propositions $G^{H}_{A,K}$, associated with the uttering of A in the context K.

In this sense, the best interpretation is the one that is less controversial, namely less subject to defeat based on conflicting propositions contained in the common ground. A set of critical questions is associated with this pattern, pointing out its defeasibility conditions:

CQ_1: How satisfactory is E_1 as an interpretation of F, apart from the alternative interpretations $E_{2\ldots n}$ available so far in the dialogue?

CQ_2: How much better an interpretation is E_1 than the alternative interpretations $E_{2\ldots n}$ available so far in the dialogue?

CQ_3: How far has the dialogue progressed? If the dialogue is an inquiry, how thorough has the investigation of the case been?

CQ_4: Would it be better to continue the dialogue further, instead of drawing a conclusion at this point?

This scheme corresponds to an argumentation scheme used in a dialectical process aimed at determining the most acceptable conclusion. The critical questions are instruments for evaluating a conclusion through dialectical means. The acceptability of the conclusion of this abductive scheme consists in an evaluation of the possible alternative interpretations, namely in an analysis of their

[2] A distinction needs to be drawn between the best explanation of a factual event and the best interpretation of a statement of law (used within a specific context). In the first case, the assumption is that an outcome is known (the grass is wet) and possible antecedent explanations of why this outcome holds (rain, sprinkler, etc.) are provided. In interpretation, we do not know the outcome (the right interpretation) in advance, and so it follows that we cannot engage in abductive explanations of why an expression should be interpreted in a certain way. However, the interpretive process needs to be thought of as a type of reasoning aimed at reconstructing an objectified communicative intention (the speaker's meaning) from the linguistic and contextual evidence that he provides us with (Scalia 1998, pp. 17, 144; Soames 2009, p. 415). The evidence we need to take into account is not the effect of a cause, but rather a reasonable sign of the speaker's communicative intention.

defeasibility conditions (underminers, undercutters, or rebuttals) that can affect the acceptability of the conclusion (Weinstock et al. 2013; Walton 2016, p. 246).

In many cases, the most important questions are the first and the second ones. The first one points to whether the interpretation considered is acceptable. The second critical question is the most complex one, as it requires a comparative assessment of the interpretations available. E_1 is compared with the possible alternatives, and the default conditions of each interpretation are evaluated. The one that is the least subject to attack and that is better supported by the evidence that can be marshaled on both sides of the disputed issue is chosen as the best one. The competing hypotheses are eliminated by this procedure. While the first critical question can be used to encourage the proponent to provide further arguments or reasons in support of the goodness (coherence, sufficiency, etc.) of the interpretation, the second question shifts a burden of proof onto the respondent. The respondent has to show that an alternative interpretation is better, and provide arguments and evidence supporting it.

VI. IMPLICATURES AND MAXIMS OF INTERPRETATION

The aforementioned argumentative framework, combining presumptive reasoning and reasoning from best interpretation, can be used to integrate the heuristics investigated in pragmatics and the legal canons of interpretation.

Grice's maxims are heuristics that guide natural language interpretation and more precisely the 'amplification' of the semantic meaning of an utterance when considering contextual factors (Levinson 1995, p. 96). They have been described as 'general default heuristics, frameworks of assumption that can be taken to amplify the coded content of messages in predictable ways unless there is an indication that they do not apply' (Levinson 1995, p. 96). Grice collected such presumptions (or expectations) under four general categories, namely the maxims of quality, quantity, relevance and manner, subsumed under a more general rule, the so-called cooperative principle. We can show how they are used considering the following famous case of implicature (Grice 1975, p. 52):

Case 1: Recommendation letter

> *A* is writing a testimonial about a pupil who is a candidate for a philosophy job, and his letter reads as follows: 'Dear Sir, Mr. X's command of English is excellent, and his attendance at tutorial has been regular. Yours, etc.'

In this example, the 'utterance-type', resulting from the semantic meaning and the generalized conversational implicatures, is subject to default. The conventional, stereotypical meaning conflicts with clear contextual information, resulting in a further interpretive step. *A* retrieves the meaning of the sentence '*Mr. X's command of English is excellent…*' not only using his lexical and syntactic knowledge of English, but combining this information with

(1) a set of expectations and presumptions concerning the act of writing a recommendation letter (Grice 1975, p. 47); and
(2) some basic communication principles, such as the presumption that one should provide as much information as required or needed.

In this case, the fact that the professor does not mention more relevant skills of the applicant does not mean that the student does not have them. However, the fact that the professor did not mention such skills when it was requested constitutes a *prima-facie* case for concluding that he does not possess such abilities.

A crucial question is whether these maxims can be used in a very specific context, the legal one, which has been often characterized by being highly strategic and uncooperative (see the position of Marmor 2008, 2014, pp. 42–44 and the analysis thereof in Morra 2016a). More precisely, legal dialogues are characterized by a specific goal, persuading the judge of the acceptability of a conclusion (Levinson 1992; Macagno and Bigi 2017). For this reason, the process of interpreting utterances made by the opposing party (or witnesses) is presumed to be aimed at supporting a viewpoint. They are relying on presumptions that are different from the Gricean maxims, in order to get some advantage in interpreting a statement in a more favorable way (Marmor 2014, pp. 46–47). One of the most famous examples is the following one (*United States v. Bronston*, 453f.2d 555, 2d cir. 1971):

Case 2: Presumption of evasion

> 'Q. Do you have any bank accounts in Swiss banks, Mr. Bronston?'
> 'A. No, sir'.
> 'Q. Have you ever?'
> 'A. The company had an account there for about six months, in Zurich'.

In this famous cross-examination case (Sinclair 1985; Tiersma 1990; Solan and Tiersma 2005; Horn 2009; Shuy 2011; Solan 2002; Jacobs and Jackson 2006), the witness actually held a bank account in a Swiss bank, but was found to have testified truthfully, as he had never stated the contrary. The witness in fact only evaded the question; however, the lawyer examining Bronston relied on the prosecutor's adherence to the maxim of relevance, and gave to the answer an interpretation maximally relevant to the context.

This case sheds light on two fundamental aspects of Gricean maxims. First, Gricean maxims are hermeneutic principles (Poggi 2011), presumptive principles (heuristics) for retrieving what the speaker means (his communicative intention) from what he says. They provide general patterns for accounting for the relationship between a statement's literal understanding (conventional meaning) and the propositional and implicated meaning that the speaker intends to convey (Morra 2016a, b). In this sense, they do not provide an interpretation, but rather account for an interpretation, bringing to light reasons to support it (Slocum 2015, pp. 203–207; Walton 2002, 191). Second, these conversational heuristics are defeasible, in the sense that they are defeated by stronger assumptions concerning the goal of the cooperative activity the interlocutors are carrying out (in this case, the goal of cross-examination is to elicit specific answers, to which the witness shall be considered committed, and avoid evasions). For this reason, the maxims need to be ordered and analyzed together with other types of presumptions governing conversation, the foremost being the purpose of the dialogue in which the interlocutors are engaged (Grice 1975, p. 45; Morra 2016a, p. 555; Butler 2016b, p. 520).

On this view, the fact that the parties to a legal dispute are engaging in a type of dialogue different from ordinary conversation does not mean that they do not rely on hermeneutic principles. The apparent failure to adhere to the cooperative maxim in some cases does not mean that cooperation is excluded from legal discussion. In

case of statutory interpretation, that the lawmaker cannot exclude the interpreter's cooperation in processing the semantic meaning and inferring the conversational one. More simply, different hermeneutic principles apply, which are more adequate to the purpose of the dialogue, aimed at providing the strongest reasons in favor or against a controversial interpretation (Sinclair 1985).

On this view, Gricean maxims can be used for analyzing legal interpretation, even though they need to be adapted to the specific conversational purpose. Grice's conversational presumptions (or heuristics) are extremely general principles (Lyons 1977, p. 594) that can be used to calculate and support an interpretation, which can be extremely useful in the context of legal interpretive disputes. Despite the differences, the principles underlying the reconstruction of what is said and what is meant in everyday conversation and in the understanding and interpretation of legal texts can be compared (Hutton 2009, p. 71). In the next two sections, we will show how the presumptions guiding the process of legal interpretation can be captured using the most generic (the neo-Gricean version of the maxims) and the more specific heuristics (the Gricean maxims) as the basis of the non-monotonic processes aimed at establishing the speaker's meaning (Brewer 2011, pp. 114–115; Miller 1990).

VII. LEGAL INTERPRETATION AND THE HEURISTICS UNDERLYING GENERALIZED IMPLICATURES

In order to show that ordinary and legal interpretation can be framed within a common and abstract argumentative model of interpretation, we need to show how maxims and canons can be conceived as presumptions that differ from the level of abstraction. In particular, the first step is to show how the more generic Gricean maxims can be used for describing the reasoning underlying legal interpretation.

Legal interpretation, like everyday interpretation, needs to face a twofold concern. On the one hand, a communicative intention (a rule of law) cannot go beyond what is said (a statement of law), as the intention needs to be retrievable from what is made explicit. On the other hand, it is impossible to state everything (Levinson 1995, p. 95); more importantly, the semantic content of a sentence doesn't always determine what is asserted and conveyed by literal uses of it (it needs to be specified and enriched) (Hutton 2009; Soames 2009, p.

408). For this reason, implicatures work not only to infer unstated information starting from the propositional content of an utterance and the context (particularized implicatures), but also to enrich the (undetermined) propositional content specifying it based on general expectations about how language is normally used. This level corresponds to the reconstruction of the utterance type, achieved through generalized implicatures and other pragmatic phenomena. These mechanisms are usually presumptive and are relevant from an argumentative perspective when they are subject to default, namely when the best interpretation needs to be provided based on linguistic evidence.

As mentioned above, legal interpretive disputes arise when the understanding of the law is challenged (Slocum 2015, p. 213). The passage from the statement of law to the legal rule is subject to defeat because an entity falling under (or not falling under) the presumptive rule of law is claimed to be excluded from (or included in) the category to which the legal predicate normally applies. For example, consider the following leading case of interpretation (Harris and Hutton 2007, p. 164; Butler 2016b; Soames 2009) concerning the meaning of 'to use a firearm' (whether it meant 'to use a firearm for its intended purpose' or 'to employ it somehow'):

Case 3: Smith v. United States, 508 U.S. 223 (1993)

> Smith offered to trade an automatic weapon to an undercover officer for cocaine. He was charged with numerous firearm and drug trafficking offenses. Title 18 U.S.C. § 924(c)(1) requires the imposition of specified penalties if the defendant, 'during and in relation to… [a] drug trafficking crime[,] uses… a firearm'.

This case is particularly interesting because it involves a dispute about the reconstruction of the ordinary meaning of 'using a firearm' (Slocum 2015, p. 214; Morra 2016a, Sect. 2). The statutory language was incomplete relative to how the aforementioned phrase was to be interpreted (Soames 2009, p. 414). The undetermined (namely potentially vague or controversial) semantic meaning was thus interpreted by the opposing parties in a different fashion in order to support their goals. They had to convince the Court of the higher acceptability of their interpretation, while the Court had to assess the reasons and interpretation, in order to infer pragmatically *what uses* of a firearm Congress intended as an aggravating circumstance (which

results in harsher sentencing). Both the majority and the dissenting opinions relied on the same pragmatic heuristics (or rather rules of presumption), completing the expression relying on what can be considered the stereotypical context and the presumptive intention of the speaker (the legislator) as inferable from the linguistic evidence.

The two rules of presumption accounting for this processing have been expressed in the neo-Gricean pragmatics (Horn 1984, 1995; Levinson 2000) as the *Q* heuristic and the *I* heuristic:

Q-principle:
Say as much as you (truthfully and relevantly) can.
Interpretive heuristic (Q):
What isn't said, isn't the case.
I-principle:
Say no more than you must.
Interpretive heuristic (I):
What is simply/briefly described is the stereotypical or normal (default) instance.

The first heuristic corresponds to the interpretive canon of *Expressio unius*: what is not stated should be considered as excluded. The second principle corresponds to the canons of the plain meaning rule and *Ejusdem generis*, the first providing for the use of a default or stereotypical meaning, the second for the enrichment of meaning based on what is commonly considered as falling under a concept.

According to the first canon, a statement of law, or term in a statement, needs to be interpreted according to its ordinary meaning in natural language, unless a statute explicitly defines some of its terms otherwise. The second canon provides that the meaning of a term can be enriched (made more precise) according to its context. Its meaning can be made more specific in a way that it fits with (it falls under the same general category of) the other words around it (or rather the instances of the concept enumerated). The classical example (Gifis 2010) is the interpretation of 'dangerous weapons' in a statute forbidding the concealment on one's person of 'pistols, revolvers, derringers, or other dangerous weapons'. The term 'dangerous weapons' can be made more specific (enriched) by considering the general nature of the listed weapons, namely firearms or handguns. These two heuristics can be used as generic strategies for determining the semantic meaning of a statement of law, relying on a stereotypical context or the linguistic

evidence of the speaker's intention. For example, we consider case *3* above to see how such principles apply:

I-principle: Narrowing the meaning	Petitioner argues that the words 'uses' has a somewhat reduced scope in § 924(c)(1) because it appears alongside the word 'firearm'. Specifically, they contend that the average person on the street would not think immediately of a guns-for-drugs trade as an example of 'us[ing] a firearm'
Q-principle: Narrowing the meaning	Just as adding the direct object 'a firearm' to the verb 'use' narrows the meaning of that verb (it can no longer mean 'partake of'), so also adding the modifier 'in the offense of transferring, selling, or transporting firearms' to the phrase 'use a firearm' expands the meaning of that phrase (it then includes, as it previously would not, nonweapon use). The court did not add 'in the offence of transferring…' and therefore intended the narrow meaning
I-principle: Broadening the meaning	The next subsection of the statute, § 924(d) provides for the confiscation of firearms that are 'used in' referenced offenses which include the crimes of transferring, selling, or transporting firearms in interstate commerce. The Court concludes from this that whenever the term appears in this statute, 'use' of a firearm must include nonweapon useSurely petitioner's bartering of his firearm can be described as 'use' within the everyday meaning of that term
Q-principle: Broadening the meaning	The words use 'as a weapon' appear nowhere in the statute. Rather, § 924(c)(1)'s language sweeps broadly, punishing any 'use' of a firearm, so long as the use is 'during and in relation to' a drug trafficking offense. Had Congress intended the narrow construction petitioner urges, it could have so indicated

These heuristics can be used to understand the strategies based on linguistic evidence to support a specific interpretation. However, they provide little ground for assessing which interpretation is the best one. If we want to analyze the mechanism of analysis of the reasons in support of conflicting interpretations and bring to light the presumptions underlying them, it is necessary to go back to Grice's maxims and compare them with the 'hermeneutic principles' used in legal interpretation. By bringing to light the various presumptions it is possible to analyze interpretive conflicts as argumentative discussions, which can be solved by comparing the opposite arguments and assessing them.

VIII. THE MAXIMS OF INTERPRETATION

Legal interpretation, a conscious and reflective activity, aimed at providing contextual evidence to support a given interpretation, needs to be supported by explicit arguments based on presumptive (defeasible) premises. Such premises, made explicit in law as interpretive canons or 'arguments', are presumptions governing the understanding or interpretation of a language, even though a very specific and technical one (Brewer 2011, pp. 114–115). By illustrating this correspondence between interpretive arguments and pragmatic maxims it is possible to pursue a twofold goal. On the one hand, the number of legal arguments can be reduced to a limited number of rules of presumption that can be compared and assessed. On the other hand, it is possible to show how the maxims can be made more specific by including contextual elements carrying different weight. More importantly, the comparison between maxims and canons can shed light on the possibility of ordering the presumptions underlying interpretation, providing generic criteria for describing the priority chosen in determining the best interpretation.

A. Maxims and Interpretive Arguments

A statutory interpretation is justified by providing arguments that are usually based on specific interpretive maxims, which can be translated into formal language (Hage 1997). MacCormick and Summers and Tarello, among many others, provide sets of interpretive arguments (MacCormick and Summers 1991; MacCormick 1995; Tarello 1980; Greenawalt 2015, Chap. 2), which can be summarized, compared, and reduced to the following list (Macagno et al. 2014):

1. Argument *a contrario*: in lack of any other explicit rules, if a rule attributes any normative qualification to an individual or a category of individuals, any additional rule attributing the same quality to any other individual or category of individuals should be excluded.
2. Argument from 'ordinary' meaning:
    a. Argument from natural meaning: if a statutory provision can be interpreted according to the meaning a native speaker of a given language would ascribe to it, such a provision should be interpreted in this way, unless there is a reason to the contrary.

b. Argument from technical meaning: if a technical term appears in a statutory provision concerns, to such a term should be attributed its technical meaning.

3. Argument *a fortiori*: if a rule attributes any normative qualification *Q* to an individual or a category of individuals *C*, it can be concluded that there is a different rule that attributes *Q* to another individual or another category of individuals *D,* based on the fact that in the specific situation *Q* shall be all the more attributed to *D*.
4. Argument from analogy (requiring the similarity of meaning between similar provisions)

    a. *Analogia legis*: the application of a *written* law applied to case *C* shall be applied to a different, similar case *D*.
    b. *Analogia juris*: an abstract and unexpressed *principle of law* from which the stated law is drawn is applied to a different case.

5. The absurdity argument: the possible interpretations of a statement of law leading to an unreasonable or 'absurd' rule shall be rejected.
6. The economic argument: the interpreter needs to exclude an interpretation of a statement of law that corresponds to the meaning of another (previously enacted or hierarchically superior) statement of law, as the legislator cannot issue a useless statement of law.
7. Argument from coherence of the law: the legal system is complete and without gaps; therefore, from the lack of a specific rule governing a case, it is possible to infer the existence of a generic one attributing a legal qualification to such a case.
8. The systematic argument: if a term has a certain meaning in a statement of law, such a term shall be interpreted as having such a meaning in all the statements of law in which it appears.
9. The teleological argument: a statement of law shall be given the interpretation that corresponds to its intended purpose.
10. Authoritative arguments:

    a. The psychological argument: to a statement of law shall be attributed the meaning that corresponds to the intention of its drafter or author, that is, the historical legislator.
    b. The historical argument: a statement of law shall be interpreted according to the interpretation that has been developed historically.

c. The naturalistic argument: a term should be interpreted according to the commonly accepted 'nature' of the things (or its commonly used definition).

Some of these canons can be considered as 'presumptions that are drawn from the drafter's choice of words, their grammatical placement in sentences, and their relationship to other parts of the 'whole' statute' (Slocum 2015, pp. 33, 211). For this reason, they can be translated (even though imperfectly) into canons of legal interpretation (Miller 1990, p. 1226), and the canons into arguments for statutory interpretation. In particular, while the psychological and historical argument and the argument from *analogia legis* rely on a context different from the one of the statute, the other canons can be considered as presumptions that can underlie the reconstruction of the propositional content that the legislator intends to convey. The set of correspondences can be represented as follows (Table 1):

The case of *Smith v. United States* can be analyzed using the aforementioned maxims and their corresponding arguments of statutory interpretation (Table 2).

The arguments used in this dispute about the meaning of 'to use a firearm' are thus reconstructed according to the conversational maxims (presumptions). We notice that some maxims, such as the first and the second maxim of quantity can be used to support contradictory conclusions (argument 1 vs. argument 2; argument 3 vs. argument 4). Other arguments are defeated by using a different argument grounded on a different presumption. For example, the absurdity argument based on the first quality maxim (argument 5) is defeated by an argument grounded on the second quality maxim (argument 6, economic argument). Similarly, the economic argument based on the second quality maxim (argument 7) is defeated by a systematic argument grounded on the relevance maxim (argument 8). Moreover, some maxims are used to undermine an argument grounded on an unaccepted generalization. For example, in argument 10 the petitioner claims that the phrase 'to use a firearm' is stereotypically intended as using the firearm as a weapon, concluding that therefore it cannot be intended to mean 'to use for trade'. However, the court used the same maxim (and argument) to defeat

Table 1. Maxims and canons of interpretation

	Grice's Maxims	Legal maxims	Legal Arguments
Quantity	1. Make your contribution sufficiently informative.	A. *Expressio unius est exclusio alterius.* B. The plain meaning of a statute ordinarily governs.	1. A contrario 2. Natural meaning argument
	2. Do not make your contribution excessively informative.	C. *Ejusdem generis.*	3. A fortiori 4. A simili
Quality	1. Do not say anything false.	D. Interpret statutes to avoid absurdity.	5. Absurdity argument
	2. Do not say anything meaningless.	E. Give effect if possible to every word of the statute.	6. Economic argument
	3. Do not say anything self-contradictory.	F. Reconcile conflicting statutes if reasonably possible.	7. Coherence of the law
Relevance	Do not say anything irrelevant.	G. *In pari materia.* H. Statutes should be interpreted in light of the legislature's purposes.	8. Systematic argument 9. Teleological argument
Manner	1. Avoid obscurity.	I. Courts should interpret words according to their ordinary, common senses. J. Courts should give legal words their established technical meanings.	2. Natural meaning argument 2. Technical meaning argument
	2. Avoid ambiguity.	K. The plain meaning of a statute ordinarily governs.	2. Natural meaning argument
	3. Be brief.	L. Give effect to every word the legislature used. M. *Expressio unius est exclusio alterius*.	6. Economic argument 1. *A contrario*
	4. Be orderly.		

Table 2. Maxims and canons of interpretation in *Smith v. United States*

Quantity 1 *A contrario*	1. Just as adding the direct object 'a firearm' to the verb 'use' narrows the meaning of that verb (it can no longer mean 'partake of'), so also adding the modifier 'in the offense of transferring, selling, or transporting firearms' t o the phrase 'use a firearm' expands the meaning of that phrase (it then includes, as it previously would not, nonweapon use). (*Smith v. United States*, 508 U.S. 223 1993). The court did not add 'in the offence of transferring…' and, therefore, intended the narrow meaning
	2. The words use 'as a weapon' appear nowhere in the statute. Rather, § 924(c)(1)'s language sweeps broadly, punishing any 'use' of a firearm, so long as the use is 'during and in relation to' a drug trafficking offense. Had Congress intended the narrow construction petitioner urges, it could have so indicated
Quantity 2 *A simili*	3. The normal usage is reflected, for example, in the United States Sentencing Guidelines, which provide for enhanced sentences when firearms are 'discharged, brandished, displayed, or possessed', or 'otherwise used'. See, e.g., United States Sentencing Commission, Guidelines Manual § 2B3.1(b)(2) (Nov. 1992). As to the latter term, the Guidelines say: 'Otherwise used' with reference to a dangerous weapon (including a firearm) means that the conduct 'did not amount to the discharge of a firearm but was more than brandishing, displaying, or possessing a firearm or other dangerous weapon'. USSG § 1B1.1, comment., n.1(g) (definitions). 'Otherwise used' in this provision obviously means 'otherwise used as a weapon'
	4. Section 2B3.1(b)(2) clarifies that between the most culpable conduct of discharging the firearm and less culpable actions such as 'brandishing, displaying, or possessing' lies a category of 'other use[s]' for which the Guidelines impose intermediate punishment. It does not by its terms exclude from its scope trading, bludgeoning, or any other use beyond the firearm's 'intended purpose'
Quality 1 Absurdity argument	5. The phrase 'uses… a firearm' will produce anomalous applications. It would also be reasonable and normal to say that he 'used' it to scratch his head

Table 2. continued

Quality 2 Economic argument	6. The words 'use as a weapon' appear nowhere in the statute. Rather, § 924(c)(1)'s language sweeps broadly, punishing any 'use' of a firearm, so long as the use is 'during and in relation to' a drug trafficking offense
	7. § 924(c)(1) provides increased penalties not only for one who 'uses' a firearm during and in relation to any crime of violence or drug trafficking crime, but also for one who 'carries' a firearm in those circumstances. The interpretation I would give this language produces an eminently reasonable dichotomy between 'using a firearm' (as a weapon) and 'carrying a firearm' (which in the context 'uses or carries a firearm' means carrying it in such a manner as to be ready for use as a weapon). The Court's interpretation, by contrast, produces a strange dichotomy between 'using a firearm for any purpose whatever, including barter', and 'carrying a firearm'
Relevance Systematic argument	8. The next subsection of the statute, § 924(d) provides for the confiscation of firearms that are 'used in' referenced offenses which include the crimes of transferring, selling, or transporting firearms in interstate commerce. The Court concludes from this that whenever the term appears in this statute, 'use' of a firearm must include nonweapon use
Relevance Teleological argument	9. The fact that a gun is treated momentarily as an item of commerce does not render it inert or deprive it of destructive capacity. Rather, as experience demonstrates, it can be converted instantaneously from currency to cannon. We therefore see no reason why Congress would have intended courts and juries applying § 924(c)(1) to draw a fine metaphysical distinction between a gun's role in a drug offense as a weapon and its role as an item of barter; it creates a grave possibility of violence and death in either capacity

Table 2. continued

Manner 1 Natural meaning argument	10. Petitioner argue that the words 'uses' has a somewhat reduced scope in § 924(c)(1) because it appears alongside the word 'firearm'. Specifically, they contend that the average person on the street would not think immediately of a guns-for-drugs trade as an example of 'us[ing] a firearm'
	11. It is one thing to say that the ordinary meaning of 'uses a firearm' *includes* using a firearm as a weapon, since that is the intended purpose of a firearm and the example of 'use' that most immediately comes to mind. But it is quite another to conclude that, as a result, the phrase also *excludes* any other use. […] That one example of 'use' is the first to come to mind when the phrase 'uses… a firearm' is uttered does not preclude us from recognizing that there are other 'uses' that qualify as well

the generalization (it is stereotypically interpreted *only* as…) and thereby to undermine the petitioner's conclusion.

B. Maxims, Arguments, and Presumptions on Interpretation

Smith is a crucial case for analyzing the presumptions and the levels of presumptions underlying the interpretation of a statutory text, which can be applied to the analysis of other cases. The 'infamous decision' (Slocum 2015, p. 214) to interpret 'to use a firearm' as meaning 'use a firearm for any purpose related to drug trafficking' can be regarded as grounded on different types of evidence that the canons of interpretation rely on and that the corresponding maxims bring to light.

The whole dispute is grounded on the fact that the intended meaning of the disputed undetermined phrase needs to be reconstructed using contextual evidence and pragmatic principles. The semantic meaning (the heuristic interpretation, or *prima-facie* understanding) can be contextually enriched by considering a stereotypical context (resulting in the interpretation 'using as a weapon') or the context of the statute. However, the possibility of this legal case stems from two fundamental presumptions governing the legal system, namely that (1) the law needs to be understood by

citizens, and (2) the law cannot be unjust. Interpretive disputes concerning a non-technical term can arise only if such a term can be ambiguous, namely potentially unjust towards the citizens (see also in civil law, *Garner v Burr* 1 KB 31 at 33, 1951, in which the interpretational dispute was allowed by the fact that 'competent speakers of the English language presumably share a knowledge of the meaning of the word 'vehicle', yet they disagree – apparently sincerely – over how to use the word' – Endicott 2010). For this reason, the possibility of the dispute resides in the possibility of the statute to be ambiguous, which would result in resolving the doubt in favor of the defendant. The arguments of the defendant and of the court are aimed at establishing whether or not the statute can be considered ambiguous.

The defendant makes his case based on the argument of natural meaning (the presumption that the semantic meaning of the statute can be interpreted presumptively as within its stereotypical meaning). This argument, however, was rejected by the Court, which points out that the stereotypical context can be different and, for this reason, this argument cannot be used for supporting the intended interpretation. The other arguments are thus aimed at establishing the ambiguity or clarity of the *contextual* meaning of the statute based on textual presumptions and textual evidence (*a contrario*; *a simili*; economic argument) (Easterbrook 1984). All these arguments are rebutted by contrary arguments based on the same maxims (canons) and supported by contrary contextual evidence. The defendant thus advances an argument (the absurdity argument) not directly based on contextual evidence, aimed at excluding the Court's interpretation based on its possible foreseeable absurd consequences. This argument is grounded on another fundamental presumption underlying the legal system, namely that the law cannot be absurd or unjust. However, the argument simply provides an interpretation of the statute by taking into account a modified (stereotypical) context (to 'use a firearm' would mean also 'to use a firearm to scratch one's head'), which is easily undercut by the economic argument of the court, which places the interpretation within the context of the statute (any use, *as long as* it is related to drug-trafficking).

The conflict of interpretations is resolved by the Court using the teleological argument, namely the intention of the law as it can be reconstructed from the context. Considering that the law is intended to punish violent drug-related crimes, it would be meaningless to construct it as punishing only some specific offences (the ones resulting from the actual discharge of weapons) and excluding others (the ones related to the possible discharge of weapons). In this sense, the intention of the law would correspond to the prohibition of discharging weapons during drug crimes, which is suboptimal with regard to the goal of better protecting society. This argument is extremely problematic (Scalia 1998, p. 39) as the line between what a law means and what a law ought to mean (according to the judge) risks being crossed. One way to interpret it from an argumentative perspective is to understand it as presupposing implicit contextual arguments. On this ideal perspective, this teleological argument is based on factual presumptions (for example that 'weapons are used in drug trafficking') and also on other implicit legal arguments (such as economic arguments). On this view, the possible meaning alleged by the petitioner is claimed to be unacceptable because it would lead to a partially redundant and useless law (a presumption resulting from the contextual information). For this reason, the Court argued that the defendant's interpretation could not be accepted, and the statute could be considered as unambiguous.

This analysis shows how the arguments of legal interpretation and the conversational maxims represent distinct levels of analysis of the reasoning underlying an interpretive dispute. The legal arguments can be used to point out the various perspectives on the subject matter that can be used pro and con a viewpoint, while the maxims can show the general strategies (relying on absent context, or the most natural reading, or the existing context, or the contextual and co-textual effects and consequences). What emerges from this picture is that these two dimensions of interpretation can be integrated within an argumentative model. This model can represent the presumptive grounds on which such maxims and arguments are based. On this view, the reconstruction of the speaker's meaning can be analyzed through the categories of presumptions that can be used to support it. However, before integrating legal and ordinary interpretation within an argumentative model, and more importantly

ordering the presumptions underlying arguments, canons, and maxims, it is necessary to analyze what is the goal of the interpretive process. To this purpose, we need to investigate the notion of the purpose of the law, show its relationships with the other interpretive presumptions, and point out how it can be integrated within a pragmatic approach to communication.

IX. PRESUMPTIONS AND THE PURPOSE OF THE LAW

From an argumentative perspective, maxims, interpretive canons, and interpretive arguments can be regarded in terms of presumptions. However, in order to order such presumptions and show the different strengths of the possible arguments based thereon, we need to identify the organizing principle. In this section, we will analyze the pragmatic presumption of legal interpretation, which is commonly referred to as the purpose of the law.

A. The Purpose of the Law as a Presumption

Both in ordinary conversation and legal interpretation, the addressees of the conversation (the hearer or the citizens) have access only to the text of the law, from which they need to reconstruct the speaker's meaning, or the legal meaning of the law. The psychological state of the speaker or lawmaker is inaccessible because it is unknown (in ordinary conversation) or attributable only to a group (the parliament), whose discussions are not easily accessible to the public (Easterbrook 1984). The intention that is communicated is the one that is retrievable from the textual and contextual evidence provided (Carston 2013, p. 24). The explicit content of a speech act (such as a statement of law) is the only accessible instrument for reconstructing the speaker's intention.

From the point of view of legal interpretation, the *Smith* case is an extremely clear illustration of the 'textualistic' reconstruction of the speaker meaning. It underlies the essential relation between the contextual meaning and the purpose of the enactment, retrieved through other broader contextual information, including background

knowledge (Greene 2006, p. 1920). In first place, what is reconstructed is the meaning that can be obtained from the co-text and the context.[3] The arguments can be classified into two general categories:

(a) the ones aimed at reconstructing the intention by means of co-textual clues; and
(b) the ones that appeal to the purpose of the law, especially its relevance to the more general and basic goal of protecting the citizens' rights.

The first type of arguments can in turn be classified into linguistic and contextual arguments:

(1) Arguments grounded on the presumptively shared meaning of a linguistic expression; and
(2) Arguments based on the constraints imposed by the co-text onto the linguistic expressions.

The arguments from the purpose of the law are more complex, as they involve, in addition to linguistic and co-textual presumptions, also factual presumptions (what a weapon is used for) and more basic and generic pragmatic presumptions (what goals the law is supposed to pursue). The teleological argument (in *Smith* concerning the goal of reducing drug-related crimes and the goal of being understood by citizens) and the absurdity argument (in the same case concerning the absurd consequences of punishing any possible 'use' of a weapon) presuppose linguistic, co-textual, and contextual presumptions, but directly refer to overarching pragmatic presumptions. However, if we sever the argument from the contextualized and objective purpose of the law and also from the context and the evidence, we risk running into the problem of attributing to the laws the meanings they *ought* to have according to the judge (Scalia 1998, p. 22).

In order to analyze the structure of pragmatic presumptions, it is useful to consider different types of reasoning in which the specific 'purpose of the law' is supported by various types of arguments. The most important one concerns the relevance of the possible effects of

[3] This approach to meaning is in conflict with the approaches aiming at reconstructing the generic 'intention of the actual legislator' (Scalia 1998, pp. 29–30; Tarello 1980, p. 364), which, in lack of evidence of such an intention, amounts to the intention of the 'historical legislator' (Tarello 1980, p. 368) or the previous interpreters, such as in the argument *ab exemplo*.

the article of law to the co-text (intended as the body of laws in which the article appears) and to the context (promoting equality and justice). One of the most famous examples is the following case (Bentham 1838, p. 313; Manning 2003, p. 2388):

Case 4

> 'Whosoever draws blood in the streets shall be put to death'I put three cases upon this law:
>
> 1. A surgeon, seeing a man drop down in a street in a fit of apoplexy, lets his blood and saves his life. Ought he for this to lose his own? Yet such must be the inevitable consequence of a strict execution of the letter of the law.
> 2. A man, waylaying his adversary, sets upon him in a street, and strangles him without shedding a drop of blood.
> 3. A man, waylaying his adversary, and meeting him in the street, draws blood from him, by giving him a stab, which however does not prove a mortal one.

The most basic interpretive reasoning grounded on the pragmatic intention of the law consists in comparing the actual goal pursued by the law and the basic pragmatic presumptions concerning the functions of the law. The aforementioned article of law contains a polysemic expression, 'to draw blood' a phrase that is used differently in various contexts to mean different concepts, and that thus can lead potentially to ambiguity. Therefore, it is necessary to analyze whether the specific article of law is ambiguous, and how to resolve the ambiguity.

The reasoning can follow two distinct paths. The first one is based on the argument from absurdity, which is aimed at excluding the broad interpretation of 'to draw blood'. Since the law cannot be unjust, and killing a man that saves other men's lives would be unjust, the interpretation supporting this consequence needs to be excluded. The other type of reasoning is grounded on the relevance of the law to the goal pursued by the body of laws (or the co-text) in which it is placed. Since the purpose of a criminal code is to punish criminal offences, the statement of law needs to be interpreted in a way that is relevant to pursue this general goal. For this reason, the meaning of 'to draw blood' needs to be limited to the cases in which a criminal offence is committed (killing or stabbing). Moreover,

putting a man to death for injuring another and acquitting a murderer would be an unreasonable consequence (contrary to equity or more specifically contradictory with other provisions of the criminal code). For this reason, the meaning of the phrase needs to be further reinterpreted. This can be done by resorting to metaphorical interpretations, which either extend its meaning ('to draw blood' in the sense of 'to take someone's life'), or to restrict it ('to draw blood' in the sense of 'to take someone's life by shedding his blood'). This last interpretation would pursue both the purpose of the criminal code and the presumption that the law needs to be understood by citizens (lenity rule). This case is only a hypothetical one, but it helps explain how the reasoning from the purpose of the law can work from an argumentative perspective as a fundamental (the highest) presumption.

B. Ordering Interpretive Presumptions

The argument from the purpose of the law can be considered as grounded on a meta-presumption, governing the choice and the hierarchy of the arguments that can be advanced to support an interpretation. The purpose of the law can be regarded as a macro-contextual argument, in which the statute to be interpreted is placed within its broader context (the body of the laws), from which its intended generic or specific purpose can be retrieved. This context-based pragmatic presumption can overcome other types of presumptions or determine the hierarchy of the interpretive presumptions.

The purpose of the law can be a presumption stronger than the one raised by the instrument most frequently used by the legislator to avoid ambiguity, namely statutory definition. A clear example is *Bond v. United States* (581 F. 3d 128, 2011). In this case, a woman seeking revenge on her husband's mistress decided to spread chemicals on (among other things) her car, doorknob, and mailbox, causing only a minor burn that was easily treated with water. However, under the Chemical Weapons Convention Implementation Act, a 'chemical weapon' is defined as follows:

> '[a]toxic chemical and its precursors, except where intended for a purpose not prohibited under this chapter'. §229F(1)(A). A 'toxic chemical' is 'any chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals. […]' §229F(8)(A).

Mrs. Bond used chemicals that happened to be 'toxic' as they resulted in her husband's mistress developing an uncomfortable rash. Moreover, since such chemicals were not used for any 'peaceful purpose', they were classified as 'chemical weapons' by the District Court, and the Court of Appeals confirmed such a decision. The Supreme Court interpreted the statement of law by taking into account the co-text (a treaty on warfare and terrorism) and the context (the interpretation of the District Court would punish a local assault as an act of terrorism). The Supreme Court analyzed the purposes of the law in general (pursue equity, justice, etc.) and the specific purpose of the treaty in which the definition occurred (to punish crimes of warfare and terrorism). It concluded that the statement of law so interpreted would pursue a goal that is irrelevant and unjust (turning assaults into terrorism crimes). For this reason, the statute is interpreted replying on a presumption stronger than the most obvious one, the statutory definition.

The purpose of the law can also overcome the presumption of the 'plain' or stereotypical meaning. In *Garner v Burr* (1 KB 31, at 33; 1951), the dispute concerned the interpretation of a statement of law, making it an offence 'to use a 'vehicle' on a road without pneumatic tires'. The problem concerned the meaning of the term 'vehicle', and more specifically the application thereof to the case of an empty chicken coop with wheels without rubber tyres and towed by a tractor. The classification is controversial, because even though the dictionary defines a 'vehicle' as 'a means of conveyance provided with wheels or runners and used for the carriage of persons or goods', there is no agreement on how to use the term (Endicott 2010). The court had to take into account two distinct arguments:

1. According to the dictionary definition, a 'vehicle' is primarily to be regarded as a means of conveyance provided with wheels or runners and used for the carriage of persons or

goods. The [magistrates] do not find that anything was carried in the vehicle at the time. Therefore, the coop is not a vehicle.

2. The Act is clearly aimed at anything that will run on wheels that is being drawn by a tractor or another motor vehicle.

The second argument is based on the relevance of the statement of law to the body of laws in which it appears. What is essential for the law is that a vehicle is used 'on a road without pneumatic tires', and the purpose thereof can be interpreted by resorting to contextual presumptions (heavy objects running on iron wheels can damage the roads). In this sense, the statement of law can contribute to a body of laws concerning the circulation of vehicles on public roads. The relevance of the statement of law (established by considering other types of co-textual and contextual presumptions) is to enact a rule for avoiding damages to the road.

The purpose of the law can be considered as a meta-presumption resulting from the broader context of the legal system, within which all the other presumptions need to be ordered. In order to illustrate this point, it is useful to take into account another case from civil law, *Nix v. Hedden* (149 U.S. 304, 1893). This case concerned the classification, or rather interpretation, of tomatoes as fruit or vegetable. The action was brought against the collector of the port of New York to recover back duties paid under protest on tomatoes imported by the plaintiff, which the collector classified as 'vegetables' (resulting in a duty) and the plaintiff contended that should be classified as 'fruit' (for which no duty had to be paid). The problem concerned the interpretation of the items listed on the Tariff Act of March 3, 1883, which provided for that, 'fruits, green, ripe, or dried, not specially enumerated or provided for in this act' shall be duty-free. The plaintiff relied on the dictionary (botanic) definition, which claimed to be the same as the one used in trade in commerce, stating that 'fruit' is the seed of plaints, or that part of plaints which contains the seed.

The dictionary definition, however, was considered a presumption, which had to be assessed considering the context (or rather the purpose) of the article of law. The law concerned the commerce of goods (and not botany); for this reason, it had to be interpreted according to the recipient of the provision of law, namely 'sellers or consumers of provisions'. To a consumer or a seller of an article of

food, the word 'tomato' indicates a good consumed as a vegetable, 'whether baked or boiled, or forming the basis of soup'. In this case, the purpose of the law (regulating duties on commodities) determines what presumptions need to be relied on, the linguistic ones (stereotypical context) or the ones concerning a specific context (trade and use of goods).

X. TYPES OF INTENTIONS AND LEVELS OF PRESUMPTIONS

The reconstruction of the 'purpose of the law' can be examined within a pragmatic framework. The meaning of a single speech act is subordinated to dialogical intentions. Grice (1975, p. 45) represented such a dialogical intention using the notion of the 'direction' of the dialogue to which each speech act needs to be linked (Asher and Lascarides 2003, Chap. 7). In order to retrieve this meaning, or speaker's specific intention, it is necessary to retrieve the relationship between the speech act and the whole text, namely its relevance (Macagno and Walton 2013; Walton and Macagno 2007, 2016; Macagno 2012). This mechanism of retrieval of the speaker's intention is clearly at work in statutory interpretation. For example, in all the aforementioned criminal and civil cases, the purpose of the use of the statement of law was retrieved by taking into account the whole co-text of the provision in which it occurred, addressing a specific issue (the relationship between drug trafficking and other crimes; the commerce of consumable goods, etc.). The so-called purpose of the law can be regarded as a presumption to which other presumptions need to be subordinated, and which can be reconstructed through different types of arguments. On this perspective, the mechanism of interpretation crucially depends on the ordering of the presumptions underlying the different alternatives.

A. Types and Levels of Presumptions

Any reconstruction of a speaker's intention resulting from his or her speech act is grounded on several presumptions different in nature (Hamblin 1970, p. 295):

> There is, as we might put it, a presumption of meaning-constancy in the absence of evidence to the contrary. The presumption is a methodological one of the same character as the legal presumption that an accused man is innocent in the absence

of proof of guilt, or that a witness is telling the truth: it is not, of course, itself in the category of a reason or argument supporting the thesis of meaning-constancy, and least of all is it an argument for the impossibility of equivocation. Dialectic, however, has many presumptions of this kind, whose existence is related to the necessary conditions of meaningful or useful discourse. It is a presumption of any dialogue that its participants are sober, conscious, speak deliberately, know the language, mean what they say and tell the truth, that when they ask questions they want answers, and so on.

The presumptions that are at the basis of meaning reconstruction have different conditions of defeasibility (Kauffeld 2003; Kauffeld 1998). The first kind of presumption (level 0) can be called pragmatic. It connects the generic or specific illocutionary force of a speech act (assertive/assertion in the context of writing a recommendation letter) to its presumed generic or specific intention (informing the interlocutor/providing information to support a decision to hire someone). The second type (level 1) consists in the conventional presumptive meaning of the lexical items (Grice 1975; Levinson 2000; Macagno 2011; Hamblin 1970). For instance, 'attendance' is usually defined as 'to be present at a place'. However, in the case of the severe professor writing a recommendation letter, it could mean 'to participate in classes actively, showing peculiar skills'. The third type of presumption (level 2) concerns expectations about relations between facts or events that can be used to interpret a specific content or an action. For instance, attendance is not usually considered as an indicator of academic excellence. The last level (level 3) includes specific mutual knowledge (Macagno and Capone 2016). For example, a specific professor may be presumed to be extremely severe, and that his recommendation letters are usually extremely concise.

These levels of presumptions are ranked contextually according to their distinct possibility of being subject to default, depending on the accessibility of information. Mutual information (concerning the specific context) is usually more accessible and less subject to default than encyclopedic information (concerning stereotypical events or facts) and the linguistic kind of information (concerning stereotypical contexts). For example, the shared presumption that a professor is famous for never writing anything at all (or anything positive) about his students overcomes the factual one that a recommendation letter indicating good attendance does not provide a reason for hiring. The

semantic content of a speech act is usually used to reconstruct the intention behind it, and may conflict with encyclopedic or shared information, which can rebut semantic presumptions. For example, the fact that a professor only uses the term 'attendance' when a student is particularly active in class and shows exceptional skills can defeat the presumptive meaning of this term (see Saul 2002).

In this case, the meaning of the statement is determined by the pragmatic presumption that the professor intended to provide information or an opinion relevant to the decision to hire the applicant. This presumption is drawn from contextual elements, namely the fact that the letter has been sent referring to an application (factual presumptions). However, this pragmatic presumption can be specified more by taking into account other presumptions. For example, the letter can be presumed to provide a *favorable* recommendation based on the presumptions associated with a stereotypical context of writing a recommendation letter. Alternatively, the same specific pragmatic presumption can be drawn from more contextual information, for example, the professor is expected to send either laconic recommendations or no recommendations at all. These two types of pragmatic presumptions have different defeasibility conditions. While the first one can be rejected by relying on more contextual information, the second one can hardly be subject to the default.

B. Types and Levels of Presumptions in Statutory Interpretation

This framework of hierarchies of presumptions can be applied to legal interpretation. Considering the interpretive disputes mentioned above, we identify four distinct levels of interpretive presumptions at work in statutory interpretation[4] (Figure 1). In particular, we notice that the global presumptions concerning the purpose of the law are the strongest presumptions, to which all the other ones are subordinated. The goal of the use of the other presumptions is to provide grounds for the use of a presumption about 'the purpose of the law', namely for specifying it within the specific context. Accordingly, at

[4] The concept of presumption we are using in legal interpretation does not correspond to the legal one, which is highly controversial in itself (Gama 2016; Macagno and Walton 2012). Clearly some presumptions of law are essential for determining the purpose of the law (the law needs to be understood), and thus represent the strongest principles underlying interpretation.

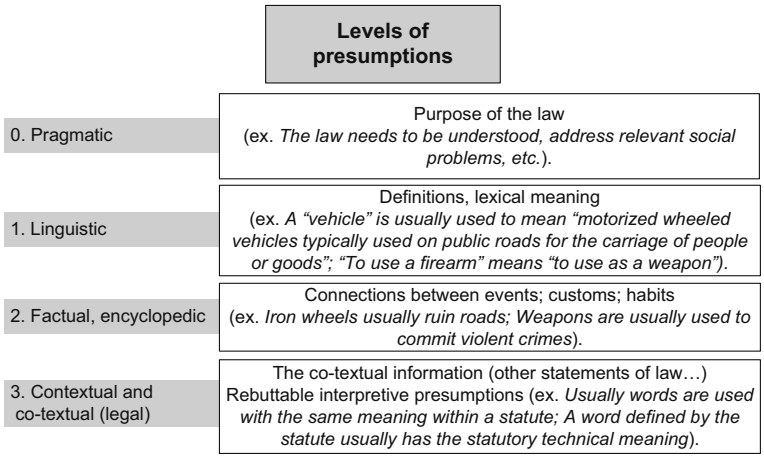

Figure 1. Levels of presumptions of legal interpretation.

the top of the hierarchy we need to place the pragmatic presumptions (presumptions concerning the purpose of the law), while the ordering of the other ones should depend on their degree of context dependence.

These levels of presumptions can be used to model the structure of meaning reconstruction in statutory interpretation. For example, since the basic presumption concerning the purpose of the law is that the law needs to be understood by citizens, the linguistic presumptions (concerning the stereotypical use) will be the prevailing ones. In *Smith vs. United States*, these presumptions concerned the ordinary meaning of 'to use (a firearm)'. However, once the everyday language ambiguity of a term has been established (two conflicting presumptions of level 1), the contextual presumptions will be used to establish whether it is also ambiguous within the specific provision of law. While the defense supported the interpretation based on the stereotypical context (linguistic presumptions, level 1), the prosecution grounded its conclusion relying on contextual elements. The majority opinion pointed out how the specific pragmatic intention of the law (level 0) was to avoid drug-related crimes and in particular any association between drug selling and weapons. This pragmatic presumption, however, needed to be justified. In particular, it was based on the other surrounding provisions of law (level 3) and the factual presumptions concerning the use of weapons in drug selling (factual presumptions, level 2). These presumptions defeated the more generic linguistic ones.

All the aforementioned cases can be analyzed using the same framework of presumptions. The possible ambiguity of the stereotypical (linguistic) meaning, considering the most generic pragmatic intention of setting out an obligation, leads to ascertaining the possible ambiguity of the contextual meaning (the ambiguity in pursuing the specific pragmatic intention). To this purpose, the presumptions relative to the specific context (factual and contextual) provide the strongest grounds for reconstructing the specific pragmatic presumption, which is in turn used to determine the univocal meaning of the contested statement (on the general principles of this defeasible reasoning see Walton 2016, p. 246; Weinstock et al. 2013).

XI. CONCLUSION

This paper addresses a crucial issue in philosophy of law and linguistics, namely the relationship between pragmatics and statutory interpretation (or more generally, legal interpretation). One of the crucial problems underlying the possibility of this dialogue is the application of the pragmatic interpretive presumptions elaborated by Grice (and developed further by the Neo-Gricean scholars) to legal interpretation, characterized by occurring in a strategic and uncooperative setting. This paper shows how this relationship can be not only possible, but also highly useful for both fields of study. To this purpose, we have shown how the mechanisms underlying ordinary and legal interpretation can be compared and included within a general same argumentative structure. We have shown how the maxims and the canons of interpretation can be conceived as presumptions, which are used in a specific argumentative pattern called argument from best explanation. On this perspective, maxims and canons become the ground of the reasons advanced to support an interpretation.

The pragmatic approach to interpretive canons can also shed light on the different forces (or rather defeasibility conditions) of the various presumptions. The analysis of the intention of the law as an objectified intention can provide us with a first distinction between the presumptions concerning the authority of the legislator and the other presumptions. While the first ones are aimed at supporting the supposedly actual and subjective intention, the other (textual) presumptions are used to reconstruct the intention that the text can 'reasonably be understood to mean' (Scalia 1998, p. 144). Among these latter

presumptions, it is possible distinguish different types or classes, characterized by distinct goals and distinct overarching principles.

From a pragmatic point of view, the strongest presumptions are the ones directly related to the basic principles of the relationship between the lawmaker and the citizens (the law cannot be unjust, absurd, meaningless, incomprehensible, etc.). Clearly, such presumptions depend on the legal culture, even though they can be easily generalized to most legal systems characterized by democratic societies. The ordering of the presumptions can be analyzed by considering their defeasibility in the specific context and the specific purpose they are used to achieve. While the possibility of an ambiguity needs to be established based on linguistic presumptions (can the linguistic element be expected to mean different concepts?), the presumptions underlying the specific interpretation can be ranked according to their relation to the specific context. In this sense, the so-called 'intention of the lawmaker (or the law)' can be regarded as a specific pragmatic presumption that in turn is grounded on contextual and factual evidence and contextual and factual presumptions.

The legal interpretive dispute in this sense can be analyzed as a conflict of opinions concerning what the lawmaker means by enacting a statement of law. The intended propositional content can be reconstructed by relying on the presumptions backing a stereotypical meaning (utterance-type) or a specific contextual meaning (utterance-token). The defeasibility conditions in these two cases are different. Contextual, specific evidence can be easily used to counter more generic presumptions (for example, the ones underlying stereotypical interpretations).

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ArgLab - Instituto de Filosofia da Nova (IFILNOVA),
Universidade Nova de Lisboa, Avenida de Berna 26,
1069-061, Lisbon, Portugal
E-mails: fabrizio.macagno@fcsh.unl.pt; fabriziomacagno@hotmail.com

CRRAR University of Windsor,
Windsor, Canada

Law Department,
European University Institute,
Villa Schifanoia, Via Boccaccio 121,
50133, Florence, Italy