

Interpretative Disputes, Explicatures, and Argumentative Reasoning

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Abstract The problem of establishing the best interpretation of a speech act is of fundamental importance in argumentation and communication in general. A party in a dialogue can interpret another's or his own speech acts in the most convenient ways to achieve his dialogical goals. In defamation law this phenomenon becomes particularly important, as the dialogical effects of a communicative move may result in legal consequences. The purpose of this paper is to combine the instruments provided by argumentation theory with the advances in pragmatics in order to propose an argumentative approach to meaning reconstruction. This theoretical proposal will be applied to and tested against defamation cases at common law. Interpretation is represented as based on a hierarchy of interpretative presumptions. On this view, the development of the logical form of an utterance is regarded as the result of an abductive pattern of reasoning in which various types of presumptions are confronted and the weakest ones are excluded. Conflicts of interpretations and equivocation become essentially interwoven with the dialectical problem of fulfilling the burden of defeating a presumption. The interpreter has a burden of explaining why a given presumption is subject to default, assuming that the speaker is reasonable and acting based on a set of shared expectations.

Keywords Interpretation · Meaning · Ambiguity · Equivocation · Burden of proof · Pragmatics · Abduction · Presumption · Explicature

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The problem of reconstructing the speaker's meaning (to be distinguished from sentential meaning, see Grice 1989) is of fundamental importance for retrieving and attributing speaker's intentions. Both ordinary conversation and more formal contexts of dialogue (such as the legal one) are characterized by the fact that communication cannot be completely explicit. Even in the legal discourse, it is basically impossible that all discourse elements are set out explicitly, despite the efforts to reduce lexical, referential, and anaphoric ambiguity. For this reason, the process of meaning reconstruction involves not only what is implicated or presupposed, but also what is explicitly said. These processes that disambiguate communication are inferences based on textual and pragmatic indicators, and for this reason they are pragmatic in nature (Carston 2002). In this sense, explicit meaning can be conceived as the outcome of pragmatic reconstruction, blurring the line between semantics and pragmatics.

This philosophical and linguistic issue is crucial for the problem of legal liability in defamation law. An utterance can be interpreted in different ways, and it can lead to different legal consequences depending on its alleged meanings. How is it possible to establish the speaker's intentions when we have only textual clues that can be subject to different interpretations? A sentential fragment is often only one of the linguistic and pragmatic instruments through which meaning is conveyed. Very often the meaning of a sentence does not correspond to the speaker's meaning, especially if there are clues or hints that indicate how the speaker's meaning has to be interpreted. The speaker may be ironic and intend to say something that is different from the sentence meaning of the statement uttered. If the speaker's meaning is matter of a process of retrieving a communicative intention from various signs, how is it possible to assess the various reconstructions of meaning, and to identify the most reasonable one?

This problem can be addressed by combining the instruments of argumentation theory with the tools developed in pragmatics (Stati 2013). On this view, the disambiguation and reconstruction of explicit meaning can be regarded as a reasoning process based on presumptions, which is guided by the pragmatic purpose of an utterance (Lascarides et al. 1996). To this purpose, we will analyze the reasoning structure of explicatures from an argumentative point of view, trying to show how linguistic pragmatics might profit from insights developed in argumentation theory. We will illustrate the relationship between the two fields of study by means of American defamation cases. The argumentative structure of discourse will be brought to light, both at a linguistic and at an epistemic level. In particular, our proposal is grounded on an argumentative approach to relevance, in which the pragmatic purpose of an utterance (Van Eemeren and Grootendorst 1984: 25–28) is regarded as the implicit conclusion to which the components of a speech act contribute.

1 The Problems with Explicit Meaning: Ambiguity and Equivocation

Since the first sophistic theories, the concept of ambiguity has been investigated in relation to its role in natural language, and its function and acceptability in

argumentation (see for instance, Aristotle 1995, *Topics*, 112b 22). Following the works of Walton (1996: 262) and van Laar (2003: Ch. 4), and the cases of interpretative ambiguity discussed by Jaszczolt (1999) and Capone (2011), we can distinguish between different types of ambiguity, namely linguistic (including semantic and syntactic) and pragmatic (or interpretative) ambiguity. While the ambiguity of a linguistic expression can lead to different logical forms, what is at stake in ambiguity at a pragmatic level is the reconstruction of the purpose of a speech act. Pragmatic (or interpretative) ambiguity can occur at a propositional or illocutionary level. In the first case, ambiguity affects the interpretation of the propositional content in a specific context. In the second case, the same utterance can be interpreted as intended to produce different illocutionary or perlocutionary effects (Walton 2006: 289; Edlow and Robert. 1977: 11, Mackenzie 1988; Deppermann 2000).

A clear example of how pragmatic ambiguity can affect the interpretation of a propositional content is the attributive/referential distinction. A noun phrase (NP) such as “The king” in “The king is powerful” can be interpreted both attributively (whoever is the king) and referentially (that specific king). In this case, the NP is associated with a logical form (Jaszczolt 1999; Bezuidenhout 1997), which is then further interpreted (or rather enriched) in a specific context, namely a specific utterance (see Bezuidenhout 1997; Jaszczolt 1999; Capone 2011 for the discussion about the default interpretation). The communicative purpose of an utterance (talking about monarchy in general or describing a man that is a king) may lead to preferring one interpretation to another.

Pragmatic ambiguities may also work at a level distinct from the propositional one. For example, the utterance “Can you pass me the salt?” can be interpreted, as it normally is, as a request. But it could also be interpreted as a simple polar question concerning the hearer’s ability to perform a specific action (for example in a context in which the hearer is badly injured). In this case, the speaker expects an answer to the polar question concerning whether the interlocutor is able or not to pass the salt (Clark 1996: 216). Likewise, in tests and exams interrogative structures are pragmatically ambiguous. They do not work as genuine questions asked to seek and obtain information. Instead, by means of such speech acts, whose propositional content is characterized by an interrogative structure, a professor investigates the students’ knowledge.

The aforementioned distinctions concerning ambiguity are of crucial importance when interpretation becomes an issue, namely the subject matter of an argumentative discussion. This especially happens when the problem of equivocation needs to be addressed. In equivocation, two different meanings of an expression or an utterance are used at the same time to draw a conclusion (for example, see Engel 1980; Walton 1996; van Laar 2003). However, as Hamblin pointed out, equivocation can be made into an issue through a point of order, that is a meta-linguistic (or rather meta-dialogical, see Krabbe 2003) move (Hamblin 1970; Ch. 9), consisting in pointing out that a rule of dialogue has been breached (Hamblin 1970: 284; van Laar 2001; van Eemeren and Grootendorst 1992: 104). On this perspective, the accusation of equivocation is a judgment on a speech act. It is a charge of using ambiguity strategically, presupposing a challenge to the allegedly unique reconstruction of the explicit meaning of a statement.

The meta-dialogical act of challenging an ambiguous move is strictly interwoven with the argumentative issue of establishing what interpretation is to be preferred in controversial cases. A particularly crucial domain in which argumentation contributes to the pragmatic problem of solving interpretational controversies is the field of law. In law, equivocation is of fundamental importance, especially in advertisement and defamation law where ambiguity (or rather the point of order of equivocation) is often used strategically for reaching a twofold purpose. On the one hand, its goal is to lead the audience to drawing the intended conclusion. On the other hand, it is aimed at avoiding the possible negative legal consequences of advancing a potentially defamatory claim. For example, we consider the following (allegedly) ambiguous advertisement (*Cuisinarts, Inc. v. Robot-Coupe Int'l Corp.*, WL 121559, at 2, S.D.N.Y. 1982):

Robot-Coupe: 21, Cuisinart: 0. WHEN ALL 21 OF THE THREE-STAR RESTAURANTS IN FRANCE'S MICHELIN GUIDE CHOOSE THE SAME PROFESSIONAL MODEL FOOD PROCESSOR, SOMEBODY KNOWS THE SCORE — SHOULDN'T YOU?

In this case, the advertiser intended to lead the audience to understanding that the product advertised (Robot-Coupe) was a “professional model food processor,” which, however, was not the case. This piece of information was not explicit. In fact, it can be retrieved by reconstructing some missing elements (the fact that “the same professional model food processor” refers to “Robot-Coupe”). The defendant claimed that the advertisement was ambiguous, and that it was not intended to mean that the machine was a professional food processor.

A charge of equivocation can be advanced at an illocutionary level, and can be focused on the interlocutor's interpretation of a speech act. For instance, we consider the following argument from classification concerning a speech act uttered to complain about an arguer's (Mr. Bresler's in this case) negotiating behavior:

- The expression “Mr. Bresler is blackmailing the city council of Greenbelt,” expresses a false statement of fact.
- A communication of a false statement that harms the reputation of an individual is defamatory.
- The expression “Mr. Bresler is blackmailing the city council of Greenbelt” is defamatory.

In this case, a point of order of equivocation is raised by attacking the presumption of uniqueness of interpretation of the allegedly defamatory expression. According to such an interpretation, however, the move would support two different communicative goals at the same time. On the one hand, it would be intended to express a complaint about Mr. Bresler's behavior (he is too aggressive in his discourse). On the other hand, it would be aimed at informing the audience that Mr. Bresler committed a serious crime. Since the two interpretations are incompatible, they need to be compared and evaluated. The two incompatible interpretations are the result of two distinct interpretative processes: while the former reading is reached by analyzing the utterance in context (Mr. Bresler is exaggerating in his

behavior), the latter is obtained by taking the utterance out of context (Mr. Bresler is committing a criminal act).

This example shows how the relationship between intentions and utterance meaning can become critical, especially when legal consequences may follow. A speaker can attribute to the interlocutor intentions that can result in legal liability or, conversely, he can reconstruct his own speech act to make it not legally liable. The problem of reconstructing the meaning of an utterance, and more precisely its explicit meaning, becomes essentially connected with the attribution and retraction of commitments. How is it possible to attribute an intention to a speaker starting from a fact, namely from the performance of a communicative act? What is the reasoning process underlying the reconstruction of meaning? What are the interpretative limits and constraints? In the following sections, these issues will be addressed combining the advances in pragmatics on the notion of explicature with the instruments provided by argumentation theory, and in particular with the notions of presumption and abductive reasoning.

2 Intentions and Presumptions

When interpretation becomes controversial—such as in cases of ambiguous statements that are subject matter of the point of order of equivocation—the pragmatic process of explicit meaning reconstruction turns into a reflective activity that can be analyzed using the instruments of argumentation. In particular, in interpretational controversies a crucial role is played by the communicative intention. This intention needs to be reconstructed through a process of reasoning that can be described according to a specific type of argumentative reasoning, namely presumptive reasoning (Capone 2006; Macagno and Walton 2012; 2013). The first step is to investigate how presumptions are involved in the automatic and reflective interpretation of an utterance.

The explicit content of an utterance (that we will call also “communicative move” or “speech act”) is the only accessible instrument for reconstructing the speaker’s intention (Capone 2009: 59). Speech acts, like any other voluntary actions, involve a decision to act in a specific way to pursue a goal. In this sense, they can be considered as commitments to bring about a specific state of affairs (Brandom 1998a: 129) through a commitment to a specific means (Searle 2001: 13). Both passages involve the freedom of the will (Thomas Aquinas, *On Evil*. Q. 3, art. 3, 151), that is, an assent to an intended goal and an intended means (Brandom 1998b: 244-250). In this sense, a speech act is an instrument that the speaker uses to pursue his communicative goal. For this reason, it can be achieved through the interlocutor’s reconstruction of the purpose of the communicative move (Capone 2013: 134). The reconstructed purpose may not correspond to the speaker’s goal. For example, in a debate a speech act can be aimed at praising the interlocutor, but the speaker may intend to elicit a different effect, namely being positively evaluated by the audience. In this sense, the illocutionary effects and the inherent perlocutionary effects (which include the dialectical dimensions of a speech act, namely the possible replies that a move opens up) need to be distinguished from the

consecutive perlocutionary effects (Van Eemeren and Grootendorst 1984: 25–28). Only the first effects represent the intentional commitments that can be directly attributed to the speaker and that can correspond to the goal that can be reconstructed from a move.

The passage from a speech act to the reconstruction of the purpose thereof may involve automatic or reflective reasoning. The speaker can convey his message based on the fact that the hearer shares the same knowledge of the language and the same commonly known pragmatic principles, through which he can make his communicative intention explicit (Capone 2013: 134). In most of the cases, the passage from the linguistic content to the communicative intention is straightforward, automatic (Patterson calls it “understanding,” see Patterson 2004; Carston 2013). However, sometimes this step becomes controversial, and a reflective interpretative activity is necessary. In such cases, the presumptive meaning of the utterance conflicts with some presumptions concerning the state of affairs referred to, and an explanation is needed to account for the apparent contradiction between what is said and what is reasonable to say. For instance, in the famous Gricean example (Grice 1989: 33), a professor writes a letter of recommendation to a colleague. The letter states that the applicant masters English very well, and that his attendance to classes has been regular. In this case, the content of the letter (concerning the ordinary behavior of a student) conflicts with the presumed purpose of a letter of recommendation (providing reasons to hire a student, usually mentioning his exceptional abilities), turning the automatic process of understanding into the reflective activity of interpreting the communicative move (Patterson 2004). The speaker presumes at the same time the following: 1) that the letter provides the hearer with reasons for hiring the student (derived from the act of writing a letter of recommendation); and 2) that the letter does not provide any reason supporting the student’s application (from the content of the letter interpreted in light of the presumptions associated with recommendation letters). In this case, the presumed purpose of the speech act is subject to default, and becomes an act of not recommending the applicant¹.

This conflict arises from the possible interpretations of the semantic content of the utterance that are guided by the contextual information. The semantic content is regarded as “not a reason for hiring” based on the normal presumptions associated with recommendation letters written in ordinary circumstances. This classification is subject to default, for instance in cases in which the audience or the addressee of the letter knows that the recommending professor is extremely severe, and does not

¹ In the letter of recommendation used by Grice, the writer is implicating that the candidate is not suitable for the job in question. The letter does not provide the relevant pieces of information concerning the candidate’s lecturing, research, supervising, and administrative abilities. This information is absent in the letter, which dwells on a quality that is not indispensable. Capone (2006) believes that the absence of the relevant elements that are conventionally associated with the frame of writing recommendation letters creates an implicature that is not cancellable. Clearly, the non-cancellability depends on the context. In a different context (for example, in case the letter is for a job as a secretary), the aforementioned letter could actually work as an act of recommendation (Seymour 2013). In this sense, we cannot evaluate cancellability independently from the context (Capone 2006, 2013). Whereas the pragmatic meaning might be different in different contexts, in a particular context an inference (such as the one triggered by the recommendation letter) cannot be withdrawn or cancelled.

write any letter at all unless the applicant is excellent or has shown exceptional skills during the classes. In this case, the interpretation of the semantic content would be much different. The factual presumptions associated with recommendation letters would be subject to default, while the presumed purpose of the speech act would be maintained.

Both the automatic and the systematic (or rather reflective) processes of meaning reconstruction can be considered as based on presumptions, and can be represented by means of patterns of presumptive reasoning (Levinson 2000: 238; Atlas and Levinson 1981; Walton 1996; Macagno and Walton 2014: 180–182). The relationship between the speaker, the speech act, and the hearer can be conceived as grounded on several presumptions different in nature (see Hamblin 1970: 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 (see Fig. 1 below) (Kauffeld 1995, 2003; Macagno 2012). The first kind of presumption (level 0) can be called pragmatic, and connects the generic or specific illocutionary force of an utterance (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 (Grice 1975: 50) or rather presumptive meaning of the lexical items (Hamblin 1970: 300; Macagno 2011). For instance, the word “sun” is ordinarily meant to indicate the central star of our planetary system, but when Dante in *Paradiso* X, 53 speaks of “sun of angels” he uses this word with a different, non-presumptive meaning, indicating the source of life of the angels, namely God (Macagno and Zavatta 2014). Similarly, “attendance” is usually defined as “to be present at a place.” However, in the specific aforementioned context of the terribly severe professor writing a recommendation letter, it could mean “to participate to classes actively, showing peculiar skills.” The third type of presumptions (level 2) concerns expectations about relations between facts or events, which can be used to interpret a specific content or an action. For instance, attendance is not usually considered as an indicator of excellence; logbooks are usually used to report important and exceptional information. The last level (level 3) includes specific mutual knowledge. For example, a specific professor may be presumed to be extremely reluctant to write recommendation letters.

These levels are ranked contextually according to their distinct possibility of being subject to default depending on the accessibility of information. Mutual information is usually more accessible and less subject to default than the encyclopedic one. For example, the presumption that a professor never writes anything positive about his students overcomes the presumption that a recommendation letter indicating good attendance does not provide strong recommendation. The semantic content of a speech act is usually used to reconstruct the intention thereof, and may conflict with encyclopedic information, which can rebut the semantic presumptions. For example, the shared fact that angels do not possess the star at the center of the solar system leads to renegotiating the meaning of “sun.” Contextual information may alter the accessibility of defaultive information, which can defeat the presumptive reasoning underlying a pragmatic interpretation. For example, the fact that a professor uses the term “attendance” only when a student is particularly active in class and shows exceptional skills can defeat the presumptive meaning of this term. Similarly, in a specific context a factual assertion such as “you are an assassin” can be intended to express an exaggerated value judgment on the interlocutor’s behavior (and not to accuse him of a crime). In this case, the semantic content does not guide the reconstruction of the communicative intention. Instead, it is the pragmatic intention that leads the hearer to attributing to “assassin” a meaning different from the presumptive one.

The different presumptions used in interpretation can be distinguished and ranked as given in Fig. 1.

The hierarchy of presumptions and the principle underlying their different strength can be used to analyze the conflicts of meaning and the process of interpretation and justification thereof.

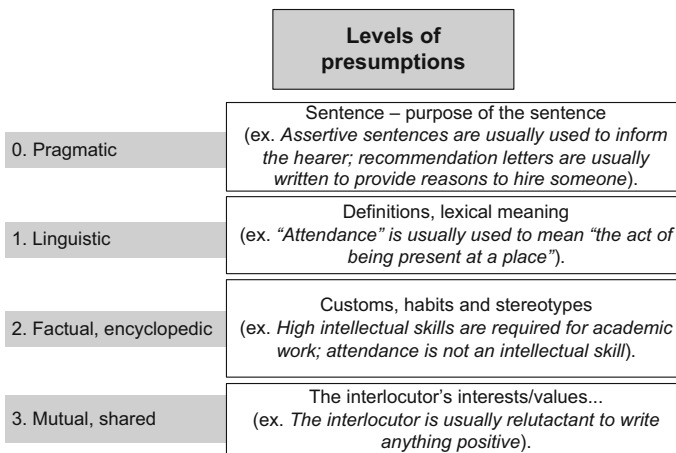


Fig. 1 Levels of presumptions

3 The Pragmatic Reconstruction of Meaning

As mentioned above, the relationship between what is said (the explicit content of a statement expressed in an utterance) and what is meant (the pragmatic meaning) is usually an automatic, heuristic process, which is subject to default due to conflicts of presumptions. In such cases, a process of reasoning aimed at assessing the conflicting presumptions is activated, so that what is said can be reconstructed by taking into account what is meant. This retrieval of the assumptions needed to reconstruct the explicit content of an utterance is particularly important when the meaning of an utterance is the subject matter of legal disputes, such as in defamation cases or in allegations of equivocation. The problem is how to establish the most reasonable interpretation, and how to prove that one reading is better than another. To this purpose, the tools provided by argumentation theory can combine with the advances in linguistic pragmatics to describe the reasoning process underlying interpretation. The first step is to analyze how the reconstruction of meaning is addressed in pragmatics. The automatic processes analyzed in this field can be developed from a systematic perspective, bringing to light the structure of reasoning that can model interpretational disputes.

The automatic reconstructions of the propositional content of an utterance are treated in pragmatics, and in particular in Relevance theory, under the phenomenon of explicature. According to Sperber and Wilson (1986: 54), an explicature is an assumption by an utterance *U* that is a development of a logical form encoded by *U*. According to Burton-Roberts (2006), in order to fix and represent the speaker's communicative intention, the hearer needs to draw the needed explicatures by adding the pragmatic assumptions of the context to the words used. In this sense, explicatures represent the processes assigning a communicative intention to an utterance by reconstructing both what the speaker intends to communicate, and the illocutionary force of the utterance expressing it (Capone 2009: 73; Ifantidou 2001: 197–198). Explicatures are cases in which implicated meaning intrudes into propositional meaning. A truth-evaluable proposition results from combining the linguistic materials of the sentence with the pragmatic elements of the explicature. It is normally accepted that explicatures must be calculated for the utterances whose sentential meaning is lacking, incomplete, or otherwise potentially contradictory (see the connection with the examples discussed later in this paper, where the explicature avoids a possible contradiction or unreasonableness of the utterance).

Explicatures are usually thought of as increments of meaning, additions to the meaning derived from the semantic skeletal nucleus. They may consist of pragmatic information that provides implicit (missing) elements. For example, we consider the case in which at a conference a speaker introduces a professor to a colleague saying that, “A Pragmatics and Cognition editor.” Here an incomplete expression is uttered, whose missing elements “This is ...” are recovered through an explicature. Sometimes explicatures can specify explicit semantic information by including knowledge that is taken for granted. For example, we consider the non-standard, example of a noticeboard on a stall selling walnuts that reads, “Walnuts and chestnuts.” A first increment could have been “We are selling both walnuts and chestnuts.” However, this interpretation would be implausible, as chestnuts and

walnuts are not available in the same time of the year. Given that chestnuts are perishable goods, it could be taken for granted that chestnuts *or* walnuts are offered depending on seasonal availability. The clients have to infer what goods are sold considering the time of the year.

4 Explicatures in Law: Innuendo

From an argumentative point of view, the pragmatic advances in the reconstruction of the propositional meaning expressed by an utterance become relevant in interpretative discussions. In these cases, the automatic processes studied in pragmatics are analyzed systematically in order to assess the best possible interpretation. A specific domain in which the argumentative reconstruction of the pragmatic phenomenon of explicature becomes crucial is defamation law. In order to show how pragmatics and argumentation theory can contribute to this field of inquiry, it is useful to analyze the types and the rules of meaning reconstruction in law, and the possible strategic uses thereof.

4.1 Types of Explicatures

The legal and systematic counterpart of the pragmatic and automatic phenomenon of explicature is called “extended meaning” or “innuendo.” In law, these terms refer to the process that mediates between the speaker’s communicative intention and the uttered (or written) statement (see Cohn 1993). In defamation disputes, the plaintiff needs to show that an apparently innocent utterance is in fact derogatory, while the defendant needs to explain why an allegedly defamatory statement is in fact innocent. To this purpose, it is possible to distinguish between three types of extensions of meaning (or innuendo), which correspond to three types of pragmatic processes involved in developing the logical form encoded in the utterance: enrichment, disambiguation, and reference assignment (Eldredge 1966: 733; Agerri and Korta 2004):

1. The defamatory meaning of the communication is explained in the light of the extrinsic facts.

Example A newspaper states that “Mr. X is enjoying his honeymoon with Ms. Y”, in the context where Mr. X is known to be married with a woman that is not Ms. Y.

2. In case the words used are ambiguous and the recipient might have construed them in either a defamatory or a non-defamatory sense, ambiguity is resolved.

Example A newspaper claiming that the President of a company “set up his son as a partner,” which can be interpreted as an accusation of nepotism (providing an opportunity to someone based on kinship) or as a description of an event (to invest with power).

3. When the connection between the defamatory meaning and the plaintiff is not clear, the reference is made explicit.

Example A book review claims that there is too much “sloppy journalism,” after attacking the book in many respects. “Too much sloppy journalism” can refer to the book contents or, in general, to the modern journalistic habits.

In this sense, extended meaning (or innuendo) “may point out the real meaning of the language and give the sense of the words used as intended by the person who used them” (*Talbot v. Mack*, 41 Nev. 245, 1919; see also *Summary of California Law* (9th ed. 1988) Torts, § 493). In defamation law, a statement reporting facts that are false and defamatory is actionable. In this sense, the problem is to establish what an opinion of fact is, whether it is false or not, and whether it affects someone’s reputation (*Milkovich v. Lorain Journal Co.*, 497 U.S. 1, 1990). Extended meaning (innuendo) intervenes to reconstruct the intended meaning in different ways. Some statements can be proven to be slanderous after clarifying potentially ambiguous expressions (slander *per se*, corresponding to innuendo 2 or 3 above). Other statements can be defamatory only after enriching them with implicit contextual information or background knowledge (innuendo 1 above).² While in slander *per se* the subject of the explanatory process is a component of the allegedly defamatory statement, in innuendo 1 the ambiguity involves the interpretation of the purpose of the speech act itself. This approach points out two categories of utterance meaning reconstruction: the reconstruction of an utterance propositional content, and the retrieval of the speaker’s illocutionary intention, which affects the interpretation of the propositional content itself.

The aforementioned types of innuendo can be analyzed according to the linguistic category of linguistic levels. Such levels correspond to the sources from which the assumptions needed to disambiguate the meaning or to make the meaning explicit are drawn. We distinguish between three levels at which an explicature can occur:

1. A linguistic level: at this level the meaning is reconstructed through assumptions deriving from the linguistic alternatives;
2. A co-textual and contextual level: at this level the meaning is explained by taking into account the surrounding sentences and the background assumptions (including conversational maxims/cognitive communicative principles);
3. An illocutionary level: at this level the meaning of a statement is explained through its pragmatic purpose.

In particular, at an illocutionary level explicatures can lead to the subtlest instances of equivocation by means of pragmatic ambiguity. In such cases the very pragmatic purpose of the communicative move can be distorted by simply

² A recent Italian judgment has decreed that even non-explicit (or non-fully explicit) defamatory utterances published through Facebook are actionable (see Tribunale di Livorno, Judgment no. 38912 of 31 December 2012).

explicating it. For example, the speech act “Mr. Bresler is blackmailing the city council of Greenbelt,” mentioned in Sect. 1 above, could be interpreted as aimed at attacking emphatically Mr. Bresler’s behavior, or describing a state of affairs. Depending on the interpretation of the speech act, the communicative move can represent the speaker’s opinion or a statement of fact.

4.2 Uses of Explicatures

As said above, explicatures (or innuendos) are assumptions bringing to light the sentence meaning and the communicative purpose. For this reason, they can be used as strategies for creating ambiguity (Aston 2000: 282; Platts 1997), namely raising the points of order of equivocation. Ambiguity, in turn, can be exploited for further dialogical moves based on the strategic interpretation of the interlocutor’s or the speaker’s words. On the one hand, the distorted version of the other party’s position can be used for attacking the viewpoint or the other party. On the other hand, the speaker can defend himself from the attacks on his statements by showing how the alleged meaning was not the intended one.

For attacking purposes, a common strategy is to provide an interpretation of a statement that excludes the needed explicatures. A clear case is the exclusion of the needed qualification of the nominal phrases (called qua-clauses or null appositives, see Capone 2010), namely the perspective under which the NP is taken into account in the statement. An example is the following famous defamation case, in which the plaintiff, Dr. Frederick Price, a minister known for his television evangelism, was quoted in a clip broadcasted by the American Broadcasting Companies as having claimed the following during a sermon (*Price v. Stossel*, 620 F.3d 992. 2010):

I live in a 25-room mansion. I have my own \$6 million yacht. I have my own private jet, and I have my own helicopter, and I have seven luxury automobiles.

ABC suggested that Price was boasting about his own wealth. However, the quote was taken out of context. In the original sermon, Price was “speaking from the perspective of a hypothetical person who, though wealthy, was spiritually unfulfilled” (*Price v. Stossel*, 620 F.3d 992. 2010). The defamatory interpretation of the claim relied on an explicature, aimed at assigning as a reference of the indexical “I” Price himself. Price pressed charges based on an alternative explicature, which takes into account the fact that in the previous part of the sermon Price was criticizing wealth for its own sake. Thus, the statement is explicated in the following fashion:

(Let us suppose that) I (as a hypothetical person) live in a 25-room mansion.
 (Let us suppose that) I (as a hypothetical person) have my own \$6 million yacht.
 (Let us suppose that) I (as a hypothetical person) have my own private jet, and I have my own helicopter, and I have seven luxury automobiles.
 (However, despite all this wealth, let us suppose that I am spiritually unfulfilled).

In this case, the missing specification of the nominal phrase (I—as a hypothetical person—) leads to a completely different interpretation of the speaker’s utterance.

Explicatures are often exploited as points of order of equivocation for defensive purposes. In this case, however, the speaker simply refuses to commit himself to an explicature that is needed for understanding the meaning of the utterance. This type of strategy is used in deceptive or misleading advertisement cases, such as in the following ad promoting a Peach Papaya flavored juice drink (*Kyle Gray and CSPI vs. PepsiCo*, 2005)³

Made with REAL Fruit Juice.

This advertisement was claimed to be deceptive. An ordinary reader would understand from this statement that the juice consisted in 100 percent juice, namely that it was made *only* with fruit. This explicature can be supported by the contextual information (usually juice drinks are made of real fruit juice in certain percentages) and the presumption (or maxim) of quantity (the company is providing a piece of information that is as informative as expected). However, as a matter of fact the juice drink only contained *some* fruit juice. The case went to court, and the defendant (PepsiCo) raised the point of order of equivocation, claiming that the plaintiff misrepresented its communicative intention. PepsiCo pointed out that the advertisement never *stated* that the product was made *only* with fruit, and that this reading was not intended by the company. On this view, the defendants used ambiguity strategically to defend themselves, accusing the other party of distorting what the advertisement meant.

5 Reconstructing Meaning in Defamation Law

As mentioned above, explicatures are developments, usually automatic, of the logical form encoded in an utterance based on textual, co-textual, and contextual elements. When meaning reconstruction is controversial, such automatic processes become the subject matter of argumentative discussions, in which the best explicature needs to be established. To this purpose, it is useful to analyze the distinct strategies of meaning reconstruction corresponding to the types of ambiguity, and bring to light the function of presumptions and the hierarchy thereof in innuendos.

5.1 Explaining Propositional Ambiguity: Linguistic Level

At first linguistic level, the reconstruction of meaning consists in the analysis of the possible linguistic alternatives and the factual presumptions associated thereto. An ambiguous expression can be solved by showing the possible contradictions or the presumptive unreasonableness resulting from the alternative explanation. For example, we consider the following case of prepositional potential ambiguity (*Wallace v. Diversified Consultants, Inc.*, 6th Cir. Mar. 26, 2014). The plaintiff, Wallace, sued the firm Diversified Consultants, Inc. on the basis of an allegedly misleading statement. He claimed that a statement sent by the consulting firm and

³ <http://www.cspinet.org/new/200508112.html> (retrieved on May 16th, 2014).

informing him that he could dispute the debt “within 30 days *of* receiving this notice” “unacceptably increased the level of confusion.” For this reason, the notice was to be considered as misleading. The case, based on the potential ambiguity of the preposition “of,” led the court to the following explication:

Case 1 Wallace points out that “of” and “after” are different words, and that they can bear different meanings. True enough. A speaker might even use “within thirty days of something” to mean “within thirty days *before* something”—as in “The Bipartisan Campaign Reform Act regulates political advertisements aired within thirty days of a primary.” But *this* possibility does not make Diversified’s choice of preposition improper. No reasonable consumer, even an unsophisticated one, would read the letter as an instruction to travel back in time (though no more than thirty days back) to dispute the debt.

In this case, the court analyzed the ambiguity raised by the two distinct presumptive meanings of “of,” and examined other possible factual presumptions that could defeat the linguistic ones. The reasoning was based on the assumption that a speaker cannot be presumed to intend an unreasonable action to be performed.

The explication of meaning can also concern the scope of modifiers, such as adjectives or adverbs. For example, in the following leading US criminal case, the issue was whether the jury was instructed correctly or not at the end of the penalty phase of a capital murder trial. The defendant contended that the instruction “You must not be swayed by mere sentiment, conjecture, sympathy, passion, prejudice, public opinion or public feeling” was ambiguous, as the adjective “mere” had an ambiguous scope. According to the defendant, it referred only to “sentiment,” excluding from its scope all the other elements of the disjunction. On this view, the judge would have instructed the jurors not to base their judgment on sympathy factors in general. In this fashion, the instruction would have amounted to disregarding also the relevant mitigating evidence concerning the defendant’s character. The court resorted to the following explication (*California v. Brown* 107 S. Ct. 837, at 840, 1987):

Case 2 This instruction was given at the end of the penalty phase, only after respondent had produced 13 witnesses in his favor. Yet respondent’s interpretation would have these two words transform three days of favorable testimony into a virtual charade. We think a reasonable juror would reject that interpretation, and instead understand the instruction not to rely on “mere sympathy” as a directive to ignore only the sort of sympathy that would be totally divorced from the evidence adduced during the penalty phase.

In this case, the scope of the adjective was established not only on the basis of the reasonable speaker’s understanding, but also on the grounds of the contextual information. The linguistic presumption associated with the possible restrictive scope of the adjective conflicts with the factual one that the judge cannot be presumed to allow evidence that cannot be taken into account later.

A similar and related strategy consists in analyzing the linguistic paradigm, and showing that a specific meaning was intended by the speaker because he chose,

within the options of the possible semantic paradigm, a lexical item carrying a particular additional meaning instead of a neutral one. A clear example is the following one (Shuy 2010: 65):

Case 3 Reporter: She is now living here, in Mountain Home, Idaho, with her second husband, a man she divorced ten years ago.

In this case, the expression “living with a man (woman)” is commonly understood as indicating sexual intimacy, in this case with a person to whom the woman was not married. The speaker could have chosen a different expression in order to avoid this specific meaning (“residing with,” for instance) (Shuy 2005: 22–24; 2010: 65), but the specific selection of a loaded expression leads to the attribution of the specific defamatory intention.

5.2 Explaining Propositional Ambiguity: Contextual Level

The context and the co-text can be used as a source of assumptions used to disambiguate an expression. A word can be presumed to carry different meanings, or to be used to bring about different communicative effects. In such cases, the surrounding portions of the text and the background assumptions concerning the use of such a lexical item can be used to disambiguate its meaning. A famous case of a dispute concerning the construction of the explicit content of a statement is the interpretation of “to set up” in *Tavoulaareas v. Piro* (759 F.2d 90, 1985). The defendant, the Washington Post, was accused of reporting a false and defamatory fact concerning the president of the Mobil Oil Corp. In particular, the dispute concerned the following statement (759 F.2d 138):

Case 4 Mobil Oil Corp. president William P. Tavoulaareas set up his son five years ago as a partner in a London-based shipping management firm that has since done millions of dollars in business operating Mobil-owned ships under exclusive, no-bid contracts.

The defamatory meaning derived from the verb “to set up,” which the defendants explained to be meant to be “just a simple way of describing how something came to be” (759 F.2d 110). This attempt to retract the presumptive meaning of the sentence, however, was rejected by the court, which resorted to the presumptive meaning that the verb had in the context in which it was used (759 F.2d 110):

The statement that “a father set up his son in business” would ordinarily mean to a reasonable reader that the father provided the son with the means or opportunity by which the latter could assume a position of responsibility in a business venture or commercial firm. [...] In our view, when the term “set up” is employed in a familial context, it implies that one family member provided an opportunity to another family member on the basis of kinship, not merit. Accordingly, we hold that the article, as a matter of law, can reasonably be interpreted as capable of bearing a defamatory meaning, namely that Tavoulaareas, as president of Mobil, made it possible for Peter to become a partner in Atlas and then helped to ensure that the business would prosper

because Peter was his son. This, in our view, is the normal, everyday reading of the article. The headline and lead sentence, generally reliable indicators of an article's content, clearly convey this meaning.

The co-text was used as an indicator of a specific presumptive meaning of the expression used. By pointing out the logical or pragmatic contradictions arising out of a specific interpretation of a sentence meaning, it is possible to rule it out and, in cases such as case 3 above, to confute a possible retraction of the explicit content.

A different reconstruction of meaning deriving from the co-text and context is the analysis of the title given to a letter written by Frank Sinatra's lawyer, Mr. Rudin in *Rudin v. Dow Jones & Co.* (557 F. Supp. 535, 540, S.D.N.Y. 1983). The Dow Jones & Co. wrote an article commenting on Frank Sinatra's investments in a lucrative company, sarcastically implicating that Sinatra and his lawyer were only interested in the gambling industry. Mr. Rudin sent a letter to the editor defending the investment and denouncing the newspaper. The letter was published under the caption "SINATRA'S MOUTHPIECE." Mr. Rudin pressed charges, claiming that the expression "mouthpiece" can have a defamatory meaning, namely "unscrupulous Mafia lawyer" (Franklin and Bussel 1984: 833). The court analyzed the allegedly ambiguous meaning by taking into consideration the commonly understood meaning of the expression within the community of readers (in this case the results showed that it simply indicated a spokesperson) and the co-text in which the expression was used (a letter was simply reported, without advancing other possible accuses) (Horton 1986: 163–164).

5.3 Propositional Meaning and Illocutionary Ambiguity

The meaning of the propositional content can be established based on the meaning of the speech act expressing it. An apparently defamatory (and therefore factual) expression can be considered to be aimed at expressing an opinion if the pragmatic context shows that its illocutionary force is expressive, namely intended to vent emotions (Vanderveken 1990: 127). The illocutionary force, in turn, can affect the interpretation of the propositional content. An expression, presumptively interpreted literally when the illocutionary force is assertive, can be read metaphorically if it is used to express emotions. In this case, it becomes a rhetorical hyperbole (Macagno and Zavatta 2014).

The relationship between the purpose of the speech act and the propositional content emerges in the aforementioned case *Greenbelt Pub. Assn. v. Bresler* (398 U.S. 6, 1970) in which a developer, Mr. Bresler, was accused of "blackmailing" the city council of Greenbelt. The presumptive meaning of the word "to blackmail" is clearly slanderous, as it accuses the developer of extortion through threat. However, this meaning was wrenched from its context. The court reconstructed the meaning by means of the following explicature (398 U.S. 13-14):

Case 5 It is simply impossible to believe that a reader who reached the word "blackmail" in either article would not have understood exactly what was meant: it was Bresler's public and wholly legal negotiating proposals that were being criticized. No reader could have thought that either the speakers at

the meetings or the newspaper articles reporting their words were charging Bresler with the commission of a criminal offense. On the contrary, even the most careless reader must have perceived that the word was no more than rhetorical hyperbole, a vigorous epithet used by those who considered Bresler's negotiating position extremely unreasonable.

The pragmatic purpose of the speech act (to complain about Bresler's unreasonable negotiating position) excludes the presumptive interpretation of the word, triggering a metaphorical interpretation thereof.

A similar case concerns the expression "accomplice to murder" in *Horsley v. Rivera*. This description was used by Mr. Rivera during a television debate concerning a website created by the plaintiff, Mr. Horsley, on which the names of the doctors that were practicing abortion were published. In October 1998, a medical doctor who performed abortions as part of his practice was shot and killed. After the killing, Horsley added the name of the killed doctor to his list and then graphically crossed out this entry. In the television debate, Mr. Rivera accused Horsley as follows (*Horsley v. Rivera* 292 F.3d 695, at 698, 702, 2002):

Case 6

- Rivera You are an accomplice to homicide, Mr. Horsley
 Horsley You are, too, because you're — you're showing exactly the same information. You're telling people about The Nuremberg Files list. You're a collaborator just like I am, if that's true
 Rivera If giving you publicity is, then I feel ashamed. I feel deeply ashamed of myself

The expression "accomplice to homicide" is clearly presumptively slanderous, as it accuses the interlocutor of a serious crime. However, the court reasoned from the pragmatic purpose of this description. The court found that the purpose of the speech act in which it occurred could be retrieved from the type of dialogue in which it was put forward, which was an eristic dialogue. Since Rivera's utterance was followed by a similar attack by Horsley, the latter could not be presumed not to have intended the hyperbolic meaning of the allegedly slanderous expression. The dialogue—and therefore the utterance itself—was not aimed at reporting a fact or advancing a charge, but rather at insulting the interlocutor using also metaphorical expressions.

5.4 Conflicts and Hierarchies of Presumptions

The aforementioned cases of conflicts of interpretations illustrate how they can be analyzed in terms of conflicts of presumptions, and solved by establishing (contextually) a hierarchy between them. Considering the cases shown above, at a linguistic level the conflict between two linguistic presumptions can be decided by selecting the most accepted one, or the one not conflicting with other stronger factual presumptions. At the contextual level, in addition to the analysis of the possible failures of factual presumptions, also the co-text becomes important for

establishing the presumptive communicative intention. The last level of meaning reconstruction fully depends on the pragmatic purpose of the utterance, retrieved through the context, the co-text, and the background assumptions (*Masson v. New Yorker Magazine, Inc.*, 501 U.S. 496, 1991, stating that the principle for claiming defamation in indirect quotations is the preservation of the communicative intention reconstructed through the context). In this case, the linguistic presumptions conflicting with the pragmatic ones need to be withdrawn.

6 Ambiguity and Best Explanation

The explication of meaning in the aforementioned cases of alleged defamation is aimed at solving ambiguity by resorting to the explanation of the speaker's communicative intention and to the reconstruction of the presumptions that the speaker can have relied upon. The co-existence of different interpretations of the propositional content of a speech act, leading to distinct communicative effects (and different legal consequences), does not mean that the two constructions are equally reasonable or acceptable. The assessment of the conflicting interpretations can be carried out systematically by reconstructing and evaluating the argumentative structure underlying them. We consider the logical form encoded by an utterance in terms of presumptions that need to be assessed together with other presumptions also different in kind. On this view, interpretation becomes the conclusion of an argumentative process of reasoning grounded on the abductive pattern of reasoning from best explanation (adapted from Walton, Reed and Macagno 2008: 171):

Argumentation Scheme 1: Reasoning from best explanation

Premise 1	F (an utterance) is an observed event
Premise 2	E (Interpretation 1) is a satisfactory description of the meaning of F
Premise 3	No alternative meaning description E' (such as interpretation 2) given so far is as satisfactory as E
Conclusion	Therefore, E is a plausible hypothesis, based on what is known so far

Ambiguity is based on the coexistence of two possibly satisfactory interpretations of the explicit content in premise 2, which needs to be resolved in premise 3. The choice of the best description of meaning (interpretation) can be regarded as a process in which the various presumptions associated with the two possible meanings are compared and evaluated, and the interpretation leading to presumptive contradictions is excluded.

For example, we analyze case 1 above, focused on the potentially ambiguous expression “within 30 days *of* receiving this notice.” The interpretation can be represented as given in Fig. 2.

In this case the possible constructions result from two potential linguistic presumptions associated with the preposition “of.”

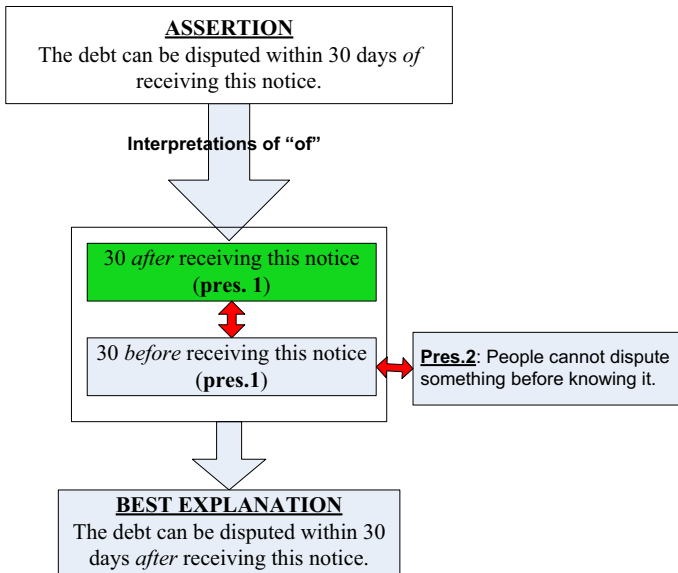


Fig. 2 Explaining propositional ambiguity

More complex is the case of linguistic expressions that are not ambiguous linguistically (at the level of linguistic presumptions) but pragmatically. For example we consider case 5 above, in which some attendants to the meeting of the city council claimed that, “Mr. Bresler is blackmailing the city council of Greenbelt.” The purpose of this speech act is reconstructed by taking into account the type of dialogue and the context of the discussion. The speaker is engaged in an eristic kind of dialogue (Walton and Krabbe 1995: 66), and for this reason his goal is to attack the interlocutor also through highly negative judgments. Considering the fact that the audience is presumed to know that Mr. Bresler has not committed any crime, the speaker’s move cannot be interpreted presumptively as aimed at informing the audience of an obvious falsity. The best explanation is the one that is less subject to conflicts with other presumptions. For this reason, the speech act should be interpreted as a hyperbolic value judgment on Mr. Bresler’s attitude. This intention constitutes the respect under which the expression “to blackmail” needs to be interpreted. It can be regarded as the conclusion that needs to be supported in order for the expression to be relevant (van Eemeren and Grootendorst 2004: 70–71; Lascarides et al. 1996). The meaning is retrieved through reasoning from best explanation, which can be represented in the following Fig. 3:

The reasoning from best explanation is represented as an assessment of the various possible interpretations of “to blackmail.” Starting from the definition of this predicate, other possible meanings are listed, gradually reducing the specificity of its semantic features. The presumptions triggered by contextual and co-textual information and the presumed purpose of the speech act exclude the presumptively contradictory interpretations.

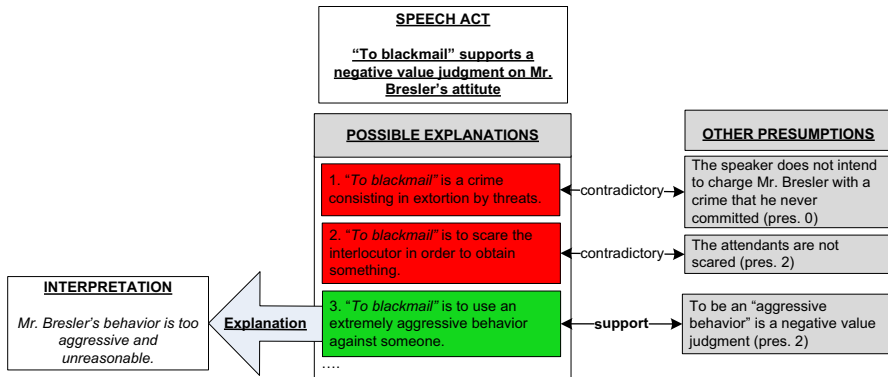


Fig. 3 Explaining pragmatic ambiguity

7 Equivocation, Explicatures, and Cancellability

The hierarchy of presumptions that the different types of extended meaning bring to light is the principle governing the reasoning process underlying meaning reconstruction. In particular, the pragmatic presumptions guide the explicature mechanisms, as they represent the stronger presumptions, namely the presumptions that require the fulfillment of a higher burden of disproof to be defeated. The idea of hierarchies of presumptions is closely connected with the problem of retraction, or rather cancellability, of the proposition expressed by an utterance and the pragmatic development thereof. The meaning of an utterance is subject to interpretation, namely to a process of reasoning aimed at its reconstruction. Therefore, it would be reasonable to conclude that it is also possible to retract at any time one's commitment to the content of an argumentative move based on an alleged misinterpretation or ambiguity. However, by conceiving explicatures (and innuendo) in terms of presumptive reasoning, it is possible to analyze meaning reconstruction in dialectical terms as a conclusion based on presumptions. For this reason, it results in a specific burden of proof, or rather, a burden of providing arguments in favor of a specific alternative interpretation of a speech act. Every move in a specific context can be given a specific interpretation based on a set of hierarchically ordered presumptions. The point of order of equivocation results in a challenge to such an interpretation, but also in a burden of explaining why the interlocutor's hierarchy of presumptions cannot be accepted.

As seen in the cases above and the rules of interpretation set out at Common law in the United States, the strongest presumptions that guide the interpretation process are pragmatic presumptions (level 0), to which the higher weight of rebuttal is associated. This phenomenon can be explained from a pragmatic point of view using the notion of cancellability. When a stretch of discourse goes on for a while, a speaker (such as the speaker belonging to the City Council of Greenbelt in case 5 above) is seen as presupposing various things, among which the interpretation of a (potentially) ambiguous lexical expression (for example, "to blackmail"), and the

explicature that disambiguates the expression (in this case, “to use an aggressive verbal behavior”). The fact that the interlocutor does not challenge the intended interpretation can be seen as an instance of presupposition accommodation (see Stalnaker 2002). The explicature is taken for granted (from now on) as an uncancellable element of meaning (Capone 2006, 2009), which can be retracted only meta-dialogically. For example, in the aforementioned case 5, Mr. Bresler could have acted uncooperatively. He could have challenged the claim that he was blackmailing the city council, maintaining that he committed no crime. This objection would have resulted in a meta-dialogical discussion on the interpretation of the predicate “to blackmail” (in which the uncooperative behavior of Mr. Bresler could have been criticized). However, should the objection be not raised, the interpretation of the speech act would have been simply presupposed in the ensuing conversation, namely it would have been taken as accepted by the interlocutor.

Conversational commitments can be manipulated. Mr. Bresler, in the case above, did not question the possible interpretation of the speech act at all during the meeting. He took for granted that the speaker of the city council meant to accuse him of a crime, and took the case to court. His move represents a distortion of the interlocutors’ commitments. He presupposed an interpretation that clearly conflicted with the one that was commonly accepted. In this sense, he manipulated the presuppositions, as he had no reason to presume that his interpretation was the commonly accepted one (considering the context and the previous and following sequences of dialogue). The point of order of equivocation, such as the one that the defendants raised in court against Mr. Bresler, is thus a comment on the compliance with some basic rules of conversation. A claim of equivocation amounts to pointing out that the interlocutor has not acted cooperatively, as the agreement on the meaning chosen for a given expression—previously tacitly established through presupposition (or explicature) accommodation—has not been complied with.

8 Conclusion

Ambiguity is a dimension of language that is of crucial importance in argumentation. Ambiguity can occur at distinct levels, from the lexical to the syntactic and pragmatic one. It can be used strategically to misguide the interlocutor through equivocation, or to distort his point of view so that it can be more easily attacked. Such strategies are based on the possibility of retracting a commitment (“I did not mean that!”) or alleging that the interlocutor’s statement was unclear. They bring to light the essential relationship between interpretation, commitment, and burden of proof, but raise the question of how to assess ambiguity, interpretation, and the point of order of equivocation. Since it is not possible to claim that all interpretations are equally good, we need to a procedure for evaluating the best one, showing the reasons for such a choice.

The starting point is to investigate where ambiguity comes from, and how it can be explained. If we conceive communication as based on presumptions of different kind, ambiguity can be thought of as an actual or alleged conflict between different presumptions, leading to distinct interpretative conclusions. On this perspective,

resolving ambiguity amounts to assessing the presumptive reasoning underlying the conflicting interpretations, and providing a criterion for deciding which one is the strongest.

The criteria for assessing presumptions and interpretations can be found in the pragmatic (automatic) notion of explicature and its legal and systematic counterpart, innuendo. Interpretation can be regarded as based on presumptions hierarchically ordered, which result in a burden of proving the contrary placed on the party that challenges the shared hierarchy of presumptions. Such a hierarchy is established based on pragmatic considerations, acknowledged in the law, which constitute the grounds of the notion of explicature and accommodation. The pragmatic purpose of a speech act becomes the relevant criterion that guides the resolution of possible conflicts of interpretative presumptions. On this view, interpretation becomes the conclusion of a process of best explanation in which the meanings of the lexemes or the linguistic elements of a sentence is retrieved by identifying their relevance, namely their role in supporting the communicative intention of the speech act.

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