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Argumentation Theory Without Presumptions

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Abstract In their extensive overview of various concepts of presumption Godden and Walton recognise "the heterogeneous picture of presumptions that exists in argumentation theory today" (Godden and Walton in Pragmat Cogn 15:333, 2007). I argue that this heterogeneity results from an epiphenomenal character of the notion of presumption. To this end, I first distinguish between three main classes of presumptions. *Framework* presumptions define the basic conditions of linguistic understanding and meaningful conversation. The "presumption of veracity" (Kauffeld) is their paradigm case. I argue that such presumptions are satisfactorily covered by the Principle of Charity (Davidson, Quine), or else Gricean maxims or satisfaction conditions for speech acts (Austin, Searle). *Formal* presumptions are general presumptive rules of argument, theorised as *topoi* or acceptable inference warrants, including institutional warrants ("If not proven guilty, then innocent"). *Material* presumptions are acceptable outcomes of nested or outsourced arguments, which entitles arguers to use them as acceptable premises or opinions (*endoxa*) in further arguments without the typical burden of proof. If this is correct, then the study of presumption always collapses into the study of other, likely more fundamental, concepts. Does it render presumptions, by Occam's Razor, altogether redundant in argumentation theory? I tentatively answer this question from a consistently conversational perspective on argumentation; I argue that the pragmatic grounds for presumptions are to be found in the conditions for speech act performance in the institutional social world, as developed by Searle.

Keywords Acceptable premises · Argumentation · Burden of proof · Conversation · *Endoxa* · Presumption · Principle of Charity · Searle · Speech acts · *Topoi*

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1 Introduction: Do We have a Problem with Presumptions in Philosophy?

Like with most philosophical concepts, the problems with presumption start, and end, with its very definition. The issue is not hopeless here, though. Presumption, as per lawyers and their followers in philosophy and argumentation theory, is typically grasped as something that stands good *unless and until* its good standing is disproved. The predicate ("good unless and until…") remains fairly constant, but the referent fluctuates. "Something" can be a proposition, a rule, an inference (such as an expectation derived from a rule), a propositional attitude, a speech act, etc. Here, I will not directly enter this definitional debate. Instead, I will cut the knot and assume (that's different from "presume") that presumption can be defined as a status of a (particular or general) claim which confers on the claim the quality of collectively recognised yet tentative acceptability. Recognition—resulting in a justified expectation that a presumptive claim stands good or holds—is thus counterbalanced by tentativeness in view of possible forthcoming objections. In other words, presumptions are alive and kicking but always within the shooting range of reasonable doubts. This sharply distinguishes them from demonstrated "beyond reasonable doubts", and thus solid, truths.

In their extensive overview of various concepts of presumption Godden and Walton recognise "the heterogeneous picture of presumptions that exists in argumentation theory today" (2007, p. 333). One source of this heterogeneity has already been mentioned—the semantic problem of what 'presumption' means. Another problem is pragmatic—the much debated understanding of where and how presumption works and what it does. (Godden and Walton argue presumptions differ as to their nature, function, justification, and force.)

The concept of presumption is first and foremost widely applied in the field of law, both criminal and civil. There, it is an assumption formally instituted and protected within the legal system. It provides crucial emergency guidance on how to proceed when relevant evidence or information is missing, notably, on how to distribute the burden of proof among the parties to the legal proceedings. It is the party that goes against presumption which needs to prove that her contradictory or contrary point stands, thus defeating the presumption. Most famous is the presumption of innocence—stating that any accused is "innocent until proven guilty"—which today seems like an irrevocable principle of any legal system.[1] But there have been times where the "presumption of guilt" was given precedence. Ullmann-Margalit mentions "the old modes of trial—by ordeal, by wager of law, or by battle" where "a man charged with a criminal offense would be punished unless he managed to clear, or rather to "clear" himself" (1983, p. 156). Yet some modern modes of trial, notably within dictatorial regimes, also operate on the presumption

[1] Of course—and hopefully!—many of the accused who are "presumed innocent" during the trial are in the end found guilty. The point is that while the particular conclusion of a presumption ("Smith is presumably innocent") is by definition defeasible and fails to hold once the verdict is issued (either way it goes: for Smith is then found guilty, or found—and not merely presumed—innocent), the very presumptive rule ("any accused is innocent until proven guilty") holds and is in principle incontrovertible throughout a given legal system.

of guilt—although typically without officially instituting it. Some of the most infamous examples within a well-established democratic legal system can be found in the McCarthy era of the 1950s, when the hunt for American communists was taking place across the USA (Fried 1997). Take for instance one of the US Supreme Court rulings regarding McCarthy's practices: the *Slochower v. Board of Education* case over the application of the United States Constitution Fifth Amendment, which states in part that "no person […] shall be compelled in any criminal case to be a witness against himself". Many of those accused of being communists engaged in "un-American activities" refused to answer the question, "Are you now, or have you ever been a member of the Communist party?", by invoking or "taking the Fifth" amendment. According to the Supreme Court, the failure to provide possibly self-incriminating facts by the defendants could be, in fact often was, taken in the McCarthy's procedures as "a confession of guilt or a conclusive presumption of perjury" (Fried 1997, pp. 203–204). Such a "presumption of perjury" is a special instance of the broader presumption of guilt, and thus constitutes, in the Court's words, no more than "a hollow mockery" of the US law, based on the presumption of innocence (*Ibid.*).

Less controversially, most other legal presumptions—such as that in the US law a person missing for 7 years is presumed dead—sound as much reasonable as "arbitrary", "artificial", or even "capricious" or "fictitious" (see Ullmann-Margalit 1983, p. 146; Bickenbach 1990; Fuller 1967; Statutory solutions… 1936, p. 346). In the Polish law, for instance, it's instead 10 years (from the end of the calendar year when s/he was last seen).[2] There is thus some arbitrariness in the presumably reasonable periods, including the seemingly technical question of how long a pregnancy can last: in the US law, a child born up to 11 months after the husband's departure is presumed a legitimate child conceived in wedlock; in the Polish law it's a significantly shorter period of 300 days (with all due caveats applied in both cases). Yet other legal presumptions may be outright contradictory across different legal systems. For instance, the distribution of property of persons mutually related as a testator and legatee (commonly, a husband and wife, parents and children, siblings) depends on the time of their death. The surviving person receives the inheritance, which then, after her or his death, is further distributed based on her/his will or legal provisions in case of intestacy. But what if they both die in a common disaster (flood, plane crash) without any evidence as to who survived longer? A number of presumptions can solve such issues. The simplest of them is "the presumption of simultaneous death" as explicitly instituted, e.g., in the Polish Civil Code (art. 32). By contrast, yet equally simply, the English Law of Property Act presumes the survival of the younger victim (Statutory solutions… 1936, p. 347). Further, elaborate systems of presumptions can be adopted in such cases.[3]

[2] Unless s/he was 65 when disappeared, then it's 5 years; or unless s/he disappeared in an air or sea disaster, for then it's a mere 6 months. See art. 29–32 of the Polish Civil Code.

[3] Such as the one in California, itself based on the Napoleon's Civil Code of 1803 (art. 720–722): "if the two persons are under fifteen, the older is presumed to have survived; if over sixty, the younger. If they are between fifteen and sixty and the sexes are different, the male is presumed to have survived; if the sexes are the same, then the survival of the younger is presumed. If one is under fifteen and the other over sixty, the former is presumed to have survived. If one is under fifteen or over sixty and the other is

Importantly, whatever the law declares as a presumption, and however "accurate" it is with respect to empirical plausibility, it remains a presumptive rule until it's formally revised within the legal system.

Presumption is likewise an indispensable element in the longstanding tradition of academic disputation: from Aristotelian dialectics, to medieval *obligationes*, to the contemporary rules of intercollegiate debate and idealised models of argumentative discussion (Rescher 2006; Walton 2014). Here, its relationship with the legal concepts is particularly evident: presumptions are understood in terms of the reverse of the burden of proof/burden of persuasion. For any assertion that presumably holds, there is a corresponding burden of proof which the opponent of this assertion needs to meet to defend her opposing assertion and thereby defeat the presumption. Presumption is thus basically a procedural device on how to distribute the argumentative labour between the confronting parties (van Eemeren and Houtlosser 2003).

Apart from the specialised fields of law, contrived academic debates and ideal models of argumentation, the ordinary notion of presumption clearly operates in everyday life. Kauffeld (1998, 2003, 2009, 2013) has provided illuminating analyses of that. According to him, presumption belongs to a large sub-class of taking something to be the case. Assuming, taking something for granted or accepting something are other members of this class. The distinguishing feature of ordinary presumptions, however, is that they are taken "*on the grounds that someone will have made that the case rather than risk criticism painful regret, reprobation, lose of esteem or even punishment for failing to do so"* (Kauffeld 2003, p. 140; emphasis in original). That is, there is a strong expectation, based on moral grounds, that the presumed thing will hold owing to others' fear of moral sanction for failing to fulfil this expectation. The clearest example of this is the presumption of veracity[4]: the overarching expectation that people will speak seriously and truthfully; sure enough, bullshitters and liars should be—and often are—strongly censured and reproached (Frankfurt 2005). Importantly, "[t]he presumption of veracity is a good example of a presumption which does not have the strength received technical conceptions assign to this type of inference" (Kauffeld 2003, p. 135). It is so, because it eludes the analysis of presumptions in terms of the reverse of the burden of proof: the fact that we presume that someone is truthful, does not always free that person from a burden of proof with respect to her/his statements.[5]

Beyond this, the notion of presumption, in one sense or another, is one of the governing or enabling principles of our communication, coordination of social activities and scientific inquiry (Rescher 2006). Indeed, reading Rescher's study on presumptions we come to realise that the theory of presumption is no less than the theory of our human dealings with the world at large. Whenever we move beyond the closed world of

Footnote 3 continued
between those ages, the presumption is that the latter survived." (Statutory solutions… 1936, p. 346, n. 17).

[4] Another example, discussed *inter alia* by Rescher (2006, *passim*), is the presumption of normalcy or typicality: that things will generally go as they have been going, that nothing out of ordinary will typically happen.

[5] To the contrary: "He who asserts has the burden of proof" is one of the commonest principles of the burden of proof.

deductive inferences (and that's pretty often), our relation to the world is presumptive: we (presumably) know things only unless and until we (presumably) know better.

Presumption, shortly, belongs to the realm of second bests. It is an often-necessary step down from the world of certain knowledge and valid deductive inference generating together Justified True Beliefs. In lieu of firmer yet unattainable grounds, it authorises us to reason *as if* the premises were true and *as if* the inference was warranted to reach a conclusion on which we can then proceed *as if* it were true.[6] It thus functions as a pragmatic policy of our navigating through the open-ended, and yet not shapeless and chaotic, world: it provides a necessary, even if not perfectly firm, point of departure for our knowledge and action (Rescher 2006; Ullmann-Margalit 1983). In the legal system, it functions through some kind of a declaration, which, to repeat, is in principle reasonable, but also somewhat arbitrary (Allen 1981; Bickenbach 1990; Fuller 1967). In argumentation models, it is a procedural device for allocating the burden of proof and, eventually, for accepting something as a starting point or a premise: presumptions can be seen as conclusions of (often outsourced) informal reasoning that reaches the threshold of acceptability (Freeman 2005; Walton 2014). Finally, ordinary presumptions operate as part of the larger ethical system which sanctions their normal operation (Kauffeld 2003, 2009, 2013).

In her systematising account, Ullmann-Margalit argues presumptions are based on three types of considerations and accordingly do three basic things (1983, pp. 157ff.). First, they give an inductively validated indication of what plausibly happens or could happen. A person unexplainably missing for 7 (or 10) years is in a vast majority of cases not alive, highly exceptional cases aside. Second, they embody some normative standard which should govern our behaviour. The presumptive principle of equality (or justice) putting all citizens equal before the law and public administration represents the democratic value of equality in respect of citizens' legal standing. Without this normative element, presumption would be no more than a sub-class of inductive inference. Indeed, it does overrule inductive considerations in cases of conflict: the fact that many accused are in the end convicted, does not undermine the presumption of innocence, since the error of convicting an innocent is considered graver than that of acquitting a possible wrongdoer. Third, next to the loftier epistemic or normative functions, presumption is a procedural device for distributing and moving on with tasks in our practical undertakings. When our deliberations stall for lack of the much needed information, presumptions tell us how to proceed on a tentative basis, and who is entitled to do so. Altogether, presumption is a form of prosthetics we need to resort to in practical reasoning, deliberation and action in lieu of a better support, a fully operative limb.[7]

[6] Beatrice Kobow suggested that presumptions might be well grasped in the framework of Hans Vaihinger's *Philosophy of 'As If'* published in German in 1911 (English transl. 1924; see e.g., Fine 1993). Indeed, this would not be without precedence. For instance, in the 1930s a prominent American legal scholar, Lon Fuller, treated presumptions as a subset of "legal fictions", drawing extensively on Vaihinger's concepts (Fuller 1967 [1930–1931]).

[7] Ullmann-Margalit limits her account of presumption to practical reason. Many others, including Rescher and Freeman, see presumption as an inevitable element of theoretical reason alike.

I'm only scratching the surface here—and it's already a big mess. Even in the most specified field of application—the law—students of presumption at times tend to throw in the towel. An often quoted authority on legal presumptions, Ronald J. Allen, argues in his influential 1981 article that:

> […] presumptions do not exist independently of other evidentiary devices and procedures that go by other names. The word "presumption" is simply a label that has been applied to a widely disparate set of decisions concerning the proper mode of trial and the manner in which facts are to be established for the purpose of resolving legal disputes. (Allen 1981, pp. 844–845).

He concludes with a section called "Toward a More Rational Approach" where he writes: "the only sensible solution to the 'problem of presumptions' is to stop using the term and to face directly whatever evidentiary issues may be posed for resolution by our system of adjudication" (Allen 1981, pp. 862–863).[8] This eventually leads him to the following conclusion: "The central thesis of this Article is that there is no such thing as a presumption, yet the foremost names in the field of evidence have argued long and hard over the 'nature' of something that I have attempted to show does not exist" (p. 864).

If this sounds a little over the top—and I presume it does in a special issue on presumptions which, let's hope, is an issue on something existing—we can move step-by-step and only then decide whether we can accept or reject Allen's bold conclusion. In the legal context, it has been suggested "that courts try to wean themselves from their dependence on the word as an easy way to designate a half dozen or so different judicial functions, wean themselves one case at a time" (Fenner 1992, p. 397).

As briefly sketched above, and discussed below, similar misgivings apply very well to the field of argumentation theory. Is there any solution? Below, I will suggest one. The core will be to try to identify different possible senses and functions of presumption. Based on this, I will argue that "the heterogeneous picture of presumptions that exists in argumentation theory today" (Godden and Walton 2007, p. 333) results from, as it were, an epiphenomenal character of the notion of presumption. The presumptive status of claims has arguably various, or "heterogeneous", sources and principles which, one at a time, can pretty comprehensively cover the field of the application of the concept of presumption in argumentation theory. Do we need this concept at all, then?

[8] There are more examples of this attitude. Another legal scholar begins his paper—entitled ominously "Presumptions: 350 Years of Confusion and it has Come to this"—with a flat-out defeatist tone: "Here is the bottom line on presumptions. They are inextricably confused devices used to move burdens from one party to another and to allow judges to comment on the value of evidence" (Fenner 1992, p. 383). What's wrong? Again, one crucial issue is definitional: "In the area of presumptions, it seems to be particularly important to define terms. To understand true presumptions, one must be able to distinguish them from other concepts to which the word is often wrongly applied. That courts, legislatures, and regulatory agencies alike misapply the label 'presumption' leads to a blurring of the concepts" (Fenner 1992, p. 396).

2 Three Basic Senses of Presumption

2.1 Presumption and Argumentation

My analysis applies to the treatment of presumptions in argumentation theory—and possibly only second-handedly to presumptions in argument theory. I understand *argumentation* as a communicative activity of producing and exchanging reasons in the context of doubt or disagreement (Lewiński and Mohammed 2016; see Jackson and Jacobs 1980; Jacobs 1989). Presumptive inferences and presumptively acceptable premises are thus approached as produced *within* the communicative activity of argumentative discussion. This is in line with most approaches to presumptions. Kauffeld, for one, when discussing the merits and perils of the "Whatelian" tradition of understanding presumptions, stresses that he shares with this view the basic idea that "*presumptions are related to the distribution of responsibilities, rights, and obligation in conversations, dialogues, discourses, and other human interactions*" (2003, p. 135; emphasis in original). (Indeed, it is strikingly hard to conceive of the related notion of the burden of proof outside of the context of argumentative discussion.) Without debating the possibly fine, but likely irrelevant here, differences between conversations, dialogues, discourses, and other human interactions, I will along these lines treat presumption as, basically, a conversational device. But I don't mean "device" to stand for some trivial or derogatory term. Quite the contrary, it is laden with fundamental philosophical concerns.

Before moving on to these concerns, I would like to address one serious objection. John Searle (oral communication, 7 September 2016) claims that presumption belongs to the basic intentional states, where the psychological mode of presuming is coupled with some propositional content. So he can individually and internally presume that Grizzly Peak in Berkeley Hills will be still today where it was yesterday. Even his dog Tarski can presume certain things, such as more or less fixed dinner times. This is reflected in the basic syntax of the expression "I presume that…" shared with other representative speech acts, which requires a full proposition; basically, a statement of fact (Searle 1975, 1983). As such, presumption is a rather fundamental concept constituting a part of what we normally take for granted. The uses of presumption in interpersonal and conversational contexts, such as in law, are thus derivative and cannot form the basis for a general account of presumption.

In response to this account, one cannot but agree that presumptions belong to the representative forms of intentionality, yet with the proviso that particular presumptions, in the sense expounded in this paper, never possess a purely referential status. They need to be based on some recognised inferential principle, on some publicly accessible criterion, rather than on a private form of basic intentionality. This inferential principle, in cases such as recurring geographical facts or animal conditioning, is itself based on "the presumption of some general degree of causal regularity in the world" (Searle 1983, pp. 132ff). Presumptions thus require a recognised (although non-deductive) inference rule, itself validated

within larger deontology, a set of accessible commitments making up the social world. These commitments can be either explicitly stated or hidden in the common background of a given community. Below, I will adduce a number of reasons, including those of Searle himself, for treating presumptions as a part of linguistic and social reality, which inevitably involves inferences within conversations.

All the same, Searle's position is not without precedence among those investigating presumptions. Bermejo-Luque develops her account in a similar vein: "[…] contrary to Walton and those defending a dialogical approach, I argue that presumptions do not necessarily involve a context of dialogue either, and consequently, I contend that the correctness of presumptions does not depend on the pragmatics of dialogical procedures" (2016, p. 2). Yet, one can and I think should argue that the speech acts she describes can only be performed in the context of conversation. And this is not a frivolous argument having currency only with those already committed to a conversational perspective on argumentation, as stated above. Indeed, a version of this argument has been developed within an epistemic and (informal) logical account of presumptions Bermejo-Luque too aims to develop. In his monograph on the topic, Freeman argues that "'presumption' is a relational concept, not a unary attribute of statements. To speak of a statement in itself as being a presumption or having the status of a presumption is to speak elliptically. A statement is always a presumption relative to some juncture in some interchange" (2005, p. 26). Since the "interchange" is for Freeman a special type of a dialogical interchange, namely a dialectical interchange (pp. 27ff), then "'presumption' is basically a dialectical notion" (p. 27). Moreover, "we should relativize the concept of a presumption not only to a given juncture in a dialectical exchange, but also to the two participants in that exchange" (p. 29). As a result, presumption is "a ternary relation between a statement, a point in a dialectical exchange, and a challenger: *There is a presumption in favor of a statement* ***S*** *at a point* ***p*** *in a dialectical exchange for the challenger* ***C*** *of that exchange if and only if* ***C*** *is obliged to concede* ***S*** *at* ***p***" (Freeman 2005, pp. 29–30, emphasis in original).

Freeman's definition of presumption, coupled with an account of conditions for being "*obliged to concede* ***S*** *at* ***p***" developed in his book, is, I think, one precise way of grasping presumption as a conversational device. I thus readily accept it, with the proviso that: (1) it basically restricts presumptions to but one of the three senses I distinguish below, and (2) it is grounded in a specific theoretical context of a regimented dialectical discussion I do not intend to limit my investigations to.

2.2 Framework Presumptions

By *framework presumptions* I understand presumptive principles which make argumentative discussion—any discussion at all, for that matter—possible in the first place. That is because these presumptions define the basic conditions of linguistic understanding and meaningful conversation. Their paradigm case is the above-mentioned "presumption of veracity", according to which "one would ordinarily presume that [a serious speaker] is making a reasonable effort to speak the truth" (Kauffeld 2003, p. 136; see also Kauffeld 2013, p. 2). While this sounds straightforward enough, there seem to be three layers to this presumption. First, we

presume that "people mean what they say" (Ullmann-Margalit 1983, p. 157), that they are serious speakers abiding by the basic semantic principles of a given language, and not constantly engaged in some game of irony, joking, Dada poetry, Carroll's Humpty-Dumptism or reckless bullshitting. Second, we take speakers to be telling what they believe is correct and true[9]; that is, we "regard others as candid, truthful, accurate, and the like until proven otherwise" (Rescher 2006, p. 119). Finally, all this converges on the overarching presumption that we deal with rational people who are "making a reasonable effort" to belong to the kingdom of reason: "In the absence of any evidence to the contrary, we proceed on the presumption that people do what they do on the basis of reasons, granting them the benefit of the doubt in point of rationality" (Rescher 2006, p. 104). The crucial point here, I argue, is that without *taking* these presumptions we cannot *get* what others are saying and doing.

This, of course, is not exactly a new idea, and not my argument. Although in a somewhat different conceptual framework, these issues were at the very centre of the concerns of the ordinary language philosophy in its heydays of the 1960s and the 1970s. The obvious point of departure is the Principle of Charity conceptualised by Quine and Davidson. However, Gricean Cooperative Principle and his conversational maxims, as well as Austin's and Searle's conditions for the performance of speech acts all likewise aim at defining the conditions of the possibility for meaningful linguistic communication. And they are all "presumptive": they can be reformulated in the language of standing presumptive rules.

The philosophical inquiry into the conditions of the possibility for rational interpretation (consisting of belief and meaning attribution) usually takes place by means of a thought experiment in which an interpreter is confronted with the task of understanding a language completely foreign to him, without recourse to any translators. Such an idealised process of "radical translation" (Quine 1960) or "radical interpretation" (Davidson 1973) apart from linguistic and extra-linguistic data,[10] requires some methodical constraints, or: presumptions, that support the process in the critical moments of doubt and less than full knowledge (which are permanently inscribed in the task of understanding an unknown language). One such necessary constraint is the Principle of Charity, which requires that we, as interpreters, hold the speakers of the interpreted language right and consistent by our own standards with a view to the empirical data at our disposal.

Davidson argues that one can:

> […] solve the problem of the interdependence of belief and meaning […] by assigning truth conditions to alien sentences that make native speakers right as often as plausibly possible, according, of course, to our own view of what is

[9] Liars, contrary to bullshitters, are serious speakers in that they do have concern for accuracy and truth, but they choose to go against them (Frankfurt 2005). They thus pass the criterion of seriousness, but fail on the truthfulness.

[10] Quine's example is that of a native pointing at a rabbit and saying "Gavagai." Davidson's is a German called Kurt, saying "Es regnet" when it's raining. By setting them alongside, I do not mean to imply that their conceptions of charity converge in all detail or that Davidson merely extended Quine's earlier idea. In fact, Davidson's account is original and better developed.

> right. What justifies the procedure is the fact that disagreement and agreement alike are intelligible only against a background of massive agreement. (Davidson 1973, p. 324)

Yet, "The methodological advice to interpret in a way that optimizes agreement should not be conceived as resting on a charitable assumption about human intelligence that may turn out to be false" (Davidson 1973, p. 324):

> The method is not designed to eliminate disagreement, nor can it: its purpose is to make meaningful disagreement possible, and this depends entirely on a foundation—some foundation—in agreement. […] Charity is forced on us;—whether we like it or not, if we want to understand others, we must count them right in most matters. We make maximum sense of the words and thoughts of others when we interpret in a way that optimizes agreement (this includes room, as we said, for explicable error, i.e. differences of opinion). (Davidson 1974, p. 19).

The basic idea behind the principle of charity is then rather simple: without charitably *taking* people as *in principle* rational (truthful, coherent) in their use of language, we can hardly understand them and engage in meaningful communication: "all successful interpretation depends upon the application of the principle of charity" (Davidson 1994, p. 122).

While Davidson explicitly denies the principle rests on a strong "charitable assumption about human intelligence," nothing he says is at odds with seeing it as a presumptive principle of seriousness, veracity or rationality.[11] Indeed, we can clearly recognise here the basic structure defining presumptions (rather than weaker assumptions).[12] There is some lack of hard evidence, which creates a gap that can be tentatively bridged with a reasonably grounded presumptive rule letting us move on with the otherwise stalled process of understanding. This rule warrants our presumptive inference that others are "right" unless and until we have independent evidence they are not (e.g., someone is inconsistent). In Davidson's words, the application of the principle clearly leaves "room for explicable error" (1974, p. 19), that is, for possible empirical concerns defeating the specific presumptive inference that the other is "right" on this occasion. An "accusation" of error, however, incurs a "burden" of explication—one needs to duly account for her rejection of the particular, optimally charitable inference, while the broad presumptive rule of charity remains intact. This is precisely how *presumptions*—in all their varieties—are said to function.

Without going into the intricate details of the principle of charity as applied in the philosophy of language and argumentation theory (but see Lewiński 2012), I hope to have made it clear it includes the three layers described above (seriousness,

[11] Dennett (1971) uses the term "assumption of rationality" which, while serving a specific theoretical function in his "intentional stance" towards belief and desire ascription, bears significant resemblance to what others theorise as the principle of charity.

[12] The chief distinction between assumptions and presumptions, the way I see it, is that the former are freer to be made. One is free, without terminological contradiction, to "assume that $2 \times 2 = 5$" in a *reductio ad absurdum* argument. By contrast, one cannot freely "presume" anything without *some* publicly accountable grounding (see below; also, Godden forth.; Plumer 2016). In their arguments, Davidson, Grice or Stalnaker are largely insensitive to such distinctions.

truthfulness, rationality), and so captures not only the mode, but also the entire scope of the application of the presumption of veracity, a paradigm framework presumption.

It should also already be clear enough that the basic idea behind the principle of charity trickles down to the Gricean principles of rational conversation and Searle's felicity conditions for speech acts.[13] In order to fathom one another—a task accomplished in interaction, whether verbal or non-verbal—we need to act under the broad presumption of rational co-operation, generated by the Cooperative Principle. This general standing presumption requires a number of additional, more specific presumptions, grounded in the more specific maxims of cooperation.[14] One of them is precisely the presumption of truthfulness (layer 2 above), captured in Grice's Quality Maxim ("Try to make your contribution one that is true", Grice 1975, p. 46) and Searle's (1969, 1975) *sincerity condition* for various speech acts. Grice was well aware of the special status of the presumption of truthfulness generated by the Quality Maxim: "Indeed, it might be felt that the importance of at least the first maxim of Quality ['do not say what you believe to be false'] is such that it should not be included in a scheme of the kind I am constructing; other maxims come into operation only on the assumption that this maxim of Quality is satisfied." (1975, p. 46). Given Grice's interchangeability of terms (see fn. 14), we can reformulate it to: all other presumptions of meaningful, rational communication function only on the presumption that truthfulness is satisfied. This is precisely why it is a *framework* presumption in my account.

I will stop here, as there seems to be little disagreement about the matter within argumentation theory. Especially the normative pragmatists (Goodwin, Jackson, Jacobs, Kauffeld, also pragma-dialecticians) have acknowledged this on numerous occasions. In Kauffeld's words, "a broadly Gricean analysis of utterance meaning shows that speech acts are performed by speakers deliberately generating special presumptions" (Kauffeld 2003, p. 144; see also Jackson 1995, p. 258).[15]

The upshot so far is this. There is no meaningful conversation, including argumentative conversation, without the framework presumptions *qua* conditions of

[13] From 1967 till 1988 (Grice's death) – when they published their most important work in this area – Grice and Searle were colleagues at the Department of Philosophy of the University of California at Berkeley. In 1981 also Donald Davidson joined the faculty there.

[14] Grice explicitly speaks of "the specific expectations or presumptions connected with" maxims (1975, p. 47), but sometimes interchangeably uses the term "assumption" in apparently the exact same sense (see, e.g., pp. 49 and 57, where "expected", "assumed" and "presumed" are clearly used synonymously). The nature of this connection is that based on the broadly reasonable (rational) status of the Principle and the maxims, interlocutors presume that they are mutually observing them, and conversationally act (both in terms of speaking and interpreting) in a way that is "consistent with this presumption" (Grice 1975, pp. 49-50).

[15] For precision: "utterance meaning" is Kauffeld's own term. Grice (1989), instead, carefully distinguished between "utterer's meaning" and "sentence meaning". Regardless, there is a long-standing discussion over the exact relations between Grice's theory of meaning and of conversational implicature (see Levinson 1983, esp. pp. 100–101, 112–113). The crucial connection is precisely the exploration of intricate processes involved in inferences between the sentence meaning (what is said) and the utterer's meaning (what is implicated, conveyed, or communicated). These processes, as explicitly laid out in Grice (1975), are inescapably grounded in some mutually recognisable presumptions (assumptions, expectations), which I term here framework presumptions.

the possibility built into. We can see them as elements or consequences of the general presumption of veracity. But a longstanding tradition in the philosophy of language has given them names different than that of a "presumption", and also has provided their in-depth justification. We might be better off looking out there, then.

2.3 Formal Presumptions

Next in the hierarchy of presumptions in argumentation, as I understand them, are *formal* presumptions. These would be general presumptive rules of argument, analogical to the standing presumptions of law. They are thus basically acceptable inference warrants ("If something happened 547 times, it is *caeteris paribus* likely to happen again"), including institutional warrants ("If not proven guilty, then innocent").

In argumentation theory much has been said about the rules *of presumptive inference* (Hansen 2003, p. 2) or rules of *presumption formulas* (Ullmann-Margalit 1983, p. 147)—and I even think too much. If we follow Rescher (2006), presumptive inference can be likewise grasped in terms of default, plausible, defeasible or non-monotonic reasoning. This further includes broadly conceived inductive reasoning: "*Induction* is, in the end […] a matter of using *plausible presumptive defaults*" (Rescher 2006, p. 81; emphasis added) such as *caeteris paribus*: "all other things being equal". Ultimately, any non-deductive reasoning—that is, any reasoning based on presumption rules or "plausible presumptive defaults"—is presumptive reasoning.[16] Once again, presumption seems to be colonising the land where other peoples settled long ago.

Notwithstanding, three ways of representing formal presumptions seem to be most common. The first is to treat them as major premises in a syllogistic reasoning, or else in what can be called after Walton (2002) a *defeasible modus ponens*. Hansen (2003, p. 3) gives the following example (which he then formalises in terms of predicate logic):

Major Premise: Everyone accused of a crime is to be presumed innocent (until proven guilty) [*Presumption rule*]

Minor Premise: Olsen has been accused of a crime [*Antecedent fact*]

Conclusion: There is a presumption that Olsen is innocent [*Presumptive proposition*]

Another way is to treat the presumptive inference in terms of the Toulmin model and thus analyse the presumption rule as a type of warrant (see Rescher 2006, p. 8; Bermejo-Luque 2016).[17] Finally, and most traditionally, one can approach

[16] When discussing presumption rules within the inferential approach to presumptions, Godden and Walton claim the following: "Such a picture also allows for the inclusion of defeasible arguments as presumption-raising by representing their warrant as a presumption rule. For example, all schematic arguments (Walton 1992b; 1996) can be represented as presumption-raising on our model simply by treating the warrants operative in the different argument schemes as presumption rules." (2007, p. 336). Note the universal quantifier ("all") and the qualification ("simply by").

[17] Rescher does not directly refer to Toulmin, but his "very definite structure" of presumptive reasoning (2006, p. 8) is in all respects equivalent to the Toulmin's (1958) extended model with possible rebuttals and qualifications.

presumption rules as *topoi* in dialectical or rhetorical syllogisms. Following Rigotti and Greco Morasso's (2010) contemporary rendering of *topoi* in their Argumentum Model of Topics, one would identify formal presumptions as a sub-class of *maxims*, inferential connections in the *procedural* component of their model. *Topoi*, and in particular *maxims*, have intimate connections to the various recognised *argument schemes* (Walton et al. 2008) and Toulmin's (1958) warrants (Rigotti and Greco Morasso 2010, p. 502ff).

An important distinction needs to be made here between presumptive commonplaces widely, and often implicitly, accepted within a given community of arguers, and presumption rules officially instituted in a given institutional context.[18] There seems to exist a broadly acknowledged presumption for analogy ("similar things should be treated similarly"), and indeed it would be surprising to see it contested as a rule (particular cases can of course be contested—that's how presumptions work). But this is different from formally declared, and thus "artificial", legal presumption rules, such as the one that a person missing for 7 (or 10) years is dead or that a younger person died after (or simultaneously with) her companion during a common disaster.

Legal scholars, especially those critical of the notion of presumption, tend to grasp the underlying nature and function of presumption in terms of a "rule of decision", i.e., "a statute or a common-law rule" (Allen 1981, pp. 846–847). Reflecting on the presumptions related to establishing survivorship in common disasters (see above, Sect. 1), Allen writes:

> Creating such presumptions does, to be sure, resolve the problem of survivorship, but the resolution is not accomplished because of something unique in the nature of a presumption. Rather, the problem is resolved because a rule of decision has been constructed. […] It is clear, then, that when presumptions are used to create rules of decision, the actual process is that a rule is constructed and the label "presumption" is then attached to it (Allen 1981, p. 846, 849)[19].

The nature of any such rule—grasped by "presumptivists" quoted above as a *presumption rule*—can be very adequately rendered through Searle's account of constitutive rules, underlying any declaration, a speech act "responsible for" the construction of all forms of institutional social reality, including legal reality (Searle 1969, 1995, 2010). As is well known, such rules have the form:

X counts as Y in context C

Examples of legal "presumptions" discussed above can easily be produced using this approach:

[18] Hansen (2003, pp. 5-6), when discussing the 19th-century treatment of presumptions by Sidgwick, and later by Rescher, invokes the latter's distinction between *conventional dialectics* (as in explicitly rule-governed legal procedures) and *natural dialectics* (as in ordinary argumentative exchanges). Similarly, Freeman distinguishes between "arbitrary or stipulative presumptions […] laid down by judicial fiat" and "'natural' or 'rational'" presumptions "outside formal legal proceedings" (2005, p. 23).

[19] American jurists debating this problem back in the 1930 s agreed "that what is here needed is a 'rule for the disposition of property'" (Statutory solutions… 1936, p. 349).

A person inexplicably missing for 7 years (X), counts as a deceased person (Y), in the context of the American common law.
A person inexplicably missing for 10 years (X), counts as a deceased person (Y), in the context of the Polish civil law.
A person missing for 6 months after an air disaster (X), counts as a deceased person (Y), in the context of the Polish civil law.
A woman perishing with her older husband in an air disaster (X), counts as perishing simultaneously with him (Y), in the context of the Polish civil law.
A woman perishing with her older husband in an air disaster (X), counts as surviving him (Y), in the context of the English Law of Property Act.
A woman perishing with her older husband in an air disaster (X), counts as being survived by him (Y), in the context of the California state law.

In any case, the field of formal presumptions is again populated by well-established concepts of argumentation theory, philosophy, or law. Presumptive inference shrinks into any non-deductive inference based on a broadly recognised *topos* or formally instituted inference licence, such as a constitutive rule of decision in law.

2.4 Material Presumptions

Material presumptions are propositions we are entitled to accept without their being conclusively justified. In the language of argumentation theory *material* presumptions are, *au fond*, acceptable outcomes of nested or outsourced arguments, which entitles arguers to use them as acceptable premises in further arguments without the typical burden of proof. They are analogous to the specific presumptions of fact in law.[20]

Material presumptions constitute, so to speak, another axis of uncertainty in argumentation. An extreme but much privileged case—a deductive inference over demonstrably true propositions—does not require argumentation, but a proof. Typically, as is well known at least since Aristotle, argumentation involves its exact opposite: a presumptive inference over presumptive facts. Presumptive facts—Aristotle's *endoxa*—take place of the premises of arguments where conclusive knowledge—*episteme*—of facts is out of reach:

> Accordingly, the role of presumption in our cognitive practice is the key. After all, arguments must have premises: *ex nihilo nihil*. We cannot argue everything discursively "all the way down." Here is where presumptions come in. They furnish a starting point. (Rescher 2006, p. 50)

On this, again, not much novel can be said to argumentation theorist, owing to the in-depth work of Freeman (2005). For him, reasonable arguments should rest on acceptable premises, and these premises are those in whose favour there is a

[20] According to a US Supreme Court decision in the Greer v. United States case, 245 U.S. 559, 561 (1918): "A presumption upon a matter of fact, when it is not merely a disguise for some other principle, means that common experience shows the fact to be so generally true that courts may notice the truth." (quoted in Allen 1981, p. 862, n. 98).

presumption established. Presumptions, in turn, are warranted by the sources which "vouch for" them. Freeman distinguishes three basic "belief-generating mechanisms" which can function as presumption warrants: (1) interpersonal mechanisms, such as common knowledge, expert opinion or trusted testimony; (2) personal mechanisms, such as one's own senses and memory, but also reason and intuition; (3) plausibility mechanisms generating presumptions for the most plausible, "normal" course of things (2005, pp. 41–42 and *passim*). For Freeman, these sources need not in themselves be based on argument as such. We do not have to go through the motions of dialectical discussion, nor even explicitly engage in steps of internal reasoning, to determine the presumptive status of the claim (Freeman 2005, p. 66 and *passim*). For instance, we do not need to argue that our perception is intact and largely veridical in order to claim that what we see is (at least) presumptively the case.

Nevertheless, given Freeman's commitment to defining presumptions as dialectical achievements, hence products of an argumentative discussion (see above, Sect. 2.1), most common presumptions which I call material presumptions directly are, or can be reconstructed as (see Godden and Walton 2007, pp. 335–336), conclusions of some prior arguments. To continue the perception example: when challenged, we can always resort to an argument: My sight is intact and largely veridical (see medical evidence), I saw a guy with a gun in the house, *ergo (presumptively)*: there was a guy with a gun in the house. Such presumptive conclusions can thus be established "before our very eyes" within the current discussion. However, conclusions can also be drawn outside of it, in which case the argument is not actually made, but can always be reconstructed in much the same way. In the latter case, material presumptions justifiably function in the discussion as basic starting points, as taken-for-granted propositions freed of the customary probative obligations. Whether actually made or reconstructible as such, material presumptions are the results of recognised arguments from authority, from witness testimony, *ad populum*, or some other reliable source "vouching for" them. Given the presumptive acceptability of these arguments, we are then entitled to use their conclusions as premises in further arguments—unless and until there are overriding considerations which defeat them: an expert is denounced as a crook, a witness is proven to have been on hallucinogenic drugs during the reported events, an opinion survey is not representative, etc.

Shortly, material presumptions can function, next to axioms, as basic premises in a critical discussion—once agreed at the opening stage, they need no further justification to be used as premises in the current discussion (Krabbe 2007). Careful stipulation of the rule-governed management of such presumptions, and their corresponding burdens of proof, is a chief element of ideal models of argumentative dialogues (Walton 2014).

A well-known account of material presumptions in ordinary conversations—called by him "pragmatic presuppositions" constituting the "common ground"—is due to Stalnaker (1974, 2002):

> In normal, straightforward serious conversational contexts where the overriding purpose of the conversation is to exchange information, or conduct a

> rational argument, what is presupposed by the speaker, in the sense intended, is relatively unproblematic. The presuppositions coincide with the shared beliefs, or the presumed common knowledge. (Stalnaker 1974, p. 51)

I will not delve here into the intricate similarities and differences between the notions of (pragmatic) presupposition, presumption and assumption.[21] While each of them can be clearly defined and thus distinguished—see for instance precise definitions of "semantic presuppositions"—Stalnaker's notion of "pragmatic presuppositions" is largely co-extensive with what I call here *material* presumptions. What is crucial, though, is that for him the background of "presumed common knowledge" is necessary for any intelligible conversation, and thus ties material presumptions back to framework presumptions: "it might be that one can make sense of a conversation as a sequence of rational actions only on the assumption that the speaker and his audience share certain presuppositions" (Stalnaker 1974, p. 55). There can be no rational conversation and argument without the common ground.

All that said, the best description of material presumptions—back then called *endoxa*—is still due to Aristotle. At the very beginning of his treatise on argumentative discussions, *Topics* (Aristotle 1997), he defines them as follows:

> Those [things] are *acceptable* [*endoxa*] […] which seem so to everyone, or to most people, or to the wise–to all of them, or to most, or to the most famous and esteemed. (*Topics*, 100b21–25)

Again, then, we find a host of age-old traditional concepts of argumentation which cover these senses of presumption: *endoxa* (translated as "acceptable", but also "accepted" or "reputable", opinions), acceptable premises, basic premises, starting points, pragmatic presuppositions, common knowledge, common ground, conclusions of previously recognised arguments, etc. As a result, the notion of presumption itself seems to be adding little to our understanding of this phenomenon.

3 The Grounds of Presumption

Having sketchily cut up the field of presumptions into three distinct chunks, I should move to the most fundamental question regarding presumptions: "What are the grounds and principles of reason that *generally* warrant presumptive inferences in the conduct of day-to-day thought and discourse?" (Kauffeld 2003, p. 138). Kauffeld has his own answer to this, but before I get there, a crucial argument made by Godden and Walton is in place:

[21] Stalnaker himself, similarly to Grice, is hopelessly insensitive to the distinctions between presuppositions, assumptions and presumptions. As the fine distinctions seem tangential to his chief argument, he uses them almost interchangeably. The exception is when he talks about a hearer's "presumption that the speaker presupposes that…" (1974, p. 57). Presumption would be then some kind of a pragmatic act/inference/attitude on the part of the hearer attributing another (semantic or pragmatic) act or attitude, that of presupposing, to the speaker. See fn. 12 and fn. 14.

> We see no overwhelming need for a singular, hegemonic account of the foundations of presumptions to the exclusion of all others. Through our survey we have seen that presumptions can be based on foundations of qualitatively different types, and we do not see this as a fault. […] Whether these foundations are explained in terms of institution-specific rules, general epistemic principles, the illocutionary consequences of making utterances of a certain kind, or the social obligations that envelop our day-to-day activities, presumptions require a grounding in norms. (Godden and Walton 2007, p. 337)

Here, four types of principles grounding presumptions are mentioned (I'm changing the order for the sake of my argument):

1. General epistemic principles, which can have different flavours: for instance, those promoting a view that presumptions embody empirical plausibility, and thus increase verisimilitude of our beliefs (Freeman 2005); or else, principles of "methodological pragmatism", such as those espoused by Rescher, for whom presumptions are ultimately necessary devices "of rational economy in cognitive matters" (2006, p. 91).
2. Social obligations, themselves part of ethical systems regulating the functioning of the society. For Kauffeld, "*to presume that p is to take that p on the grounds that someone will have made that the case rather than risk criticism, painful regret, reprobation, lose of esteem or even punishment for failing to do so*" (2003, p. 140, emphasis in original).
3. Institution-specific rules, such as the "arbitrary" or "artificial" legal presumptions, e.g. that a child born up to 11 months after the husband's death is a legitimate child conceived in wedlock. To repeat (see above), whatever the law declares as a presumption, and however "accurate" it is with respect to empirical plausibility or even basic ethical instincts, it remains a presumptive rule until it's formally revised within the legal system.
4. Illocutionary consequences of making utterances of a certain kind.

Contrary to what might seem right at the first sight, I see the last option as the one most promising for a *general* account for grounding presumptions. (And I don't think "general" necessarily means "hegemonic"; it can instead mean "unifying" or "comprehensive".) To this end, however, it needs some re-interpretation.

Let me start by noticing that it is neatly compatible with Kauffeld's account. The examples he provides are in fact all speech acts such as:

- Promise: "Smith says (speaking seriously) that he will be home by seven" (Kauffeld 2003, p. 136)
- Advice: "Smith advises Jones to invest in Northwest Securities" (Kauffeld 2003, p. 137)
- Accusation, Proposal (Kauffeld 1998)

These are speech acts for which we do not exactly presume they will be performed "truthfully" (as Kauffeld has it) but rather that they will be performed

seriously, happily, felicitously. In short, speakers are obliged to fulfil and, if prompted, to defend their conditions of satisfaction, whatever they are (truth would be a special case). As argued above, at the very basis of it lies the principle of charity requiring that we are serious and humble servants of the very semantics of our language.

All the same, Kauffeld seems to be confusing the fear of sanction with the very source of the rule. Compare the following, rather noncontroversial cases of ordinary presumptions:

Caeteris paribus, I'm entitled to presume that:

- Smith will say that $2 \times 2 = 4$ rather than risk criticism, resentment or even punishment
- Smith will say "He doesn't" and not "He don't" rather than risk criticism, resentment or even punishment
- Smith will mean 'rabbit' when he says "rabbit" rather than risk criticism, resentment or even punishment
- Smith will be home by seven, as he promised, rather than risk criticism, resentment or even punishment

Here, we arguably have heterogeneous sources of the rules generating presumptions: basic arithmetic, basic grammar, basic conditions of possibility for understanding language, or basic semantic/pragmatic conditions of satisfaction of speech acts. Rather than uniting them at the end of the road, the possible social sanction, one can try to do it at the very start, their source.

Given the approach to argumentation as a conversational activity, adopted above, it seems next to self-explanatory that it is a certain understanding of conversation which will be the unifying source for grounding presumptions. Yet, it does not preclude reasonable justification. I will propose one largely grounded in Searle's social ontology, itself based on a broad view of language (Searle 1995, 2010).

To start with, for Searle, there is no such thing as ordinary social life which is not institutional life. Language itself, with its syntactic, semantic and pragmatic rules, is "always already" an institutionalised entity. Norms governing the use of presumptions—which are clearly linguistic entities—are thus always institutional. And they seem to be the norms of ordinary language use in conversations. These norms come at at least three levels. In the first place, the norms provide the basic conditions of the possibility for meaningful interaction, such as the principle of charity and Gricean maxims (called above *framework* presumptions). In the second place, conversations are inescapably conducted "against a background of practices and within a network of other beliefs and assumptions" accepted by a given historically, culturally and socially defined group of interlocutors (Searle 1992, p. 26; see also Grice 1975; Stalnaker 1974, 2002). In particular, certain *koinoi topoi* (*loci communes*) and *endoxa* are accepted and thus expected to be respected (most *formal* and *material* presumptions). Finally, normal conversation is not always an ordinary conversation, in the sense of a small talk or informal interaction. Often enough to make this point stick, conversations happen in formal institutions and are

therefore partly governed by explicit institutional fiats and stipulations. Most presumptions of law fall under this category.

Crucially, "intentional acts of meaning […] necessarily involve a deontology" (Searle 2010, p. 84), that is, by the very performance of them "we already have commitments, in the full public sense that combines irreversibility and obligation" and further "involves *the public assumption* of irreversible obligations" (p. 82; emphasis added). The normative core governing presumptions, seen as their defining characteristics by Godden and Walton (2007), can then be traced back to the very semantic rules for the performance of speech acts, to their satisfaction conditions. The rule-governed use of language generates commitments and obligations, and thus corresponding presumptive expectations, described by Kauffeld. However, these expectations are not external factors due to the fear of moral sanction such as criticism, resentment or punishment. Instead, they belong to the very nature of language:

> My claim that the deontology in the form of commitment is internal to the performance of the speech act runs counter to the widely held view in philosophy that the deontic requirements are somehow external to the type of speech act, the view that first we have statement making and then we have a rule that enjoins us to making only true ones; first we have promise making and then we have a rule that obligates us to keep the promises. […] But it is not correct. You cannot explain what a statement, or a promise, is without explaining that a statement commits the maker of the statement to its truth and the promise commits the maker of the promise to carrying it out. In both cases the commitment is *internal* to the type of speech act being performed, where by "internal" I mean it could not be the type of speech act it is, it could not be that very kind of speech act, if it did not have that commitment. (Searle 2010, p. 83)

If this is so, then the speech act account of the foundations of presumption (ground 4 above) subsumes the account in terms of social obligations (ground 2 above), advocated by Kauffeld.[22]

Further, the internal deontology of language extends into the institutional reality largely created and maintained through the speech acts of *declaration* (Searle 2010, ch. 5). These speech acts are necessary, among other things, to institute legal norms—and this surely includes legal presumptions; or, to be precise, legal rules that generate presumptions. The law at large, as any other form of institutional reality, is constituted by a set of (standing) declarations and fiats performed under proper conditions. This explains the "artificial" or stipulative character of presumptions in law. Again, this subsumes under the speech act account the institution-specific rules as grounds for presumptions (ground 3 above).

What is left is ground 1, tying presumptions to basic epistemic principles. In disciplined scientific inquiry, the notion of presumption is, again, at best redundant

[22] Compare this with Allen, who, speaking in the specific context of legal presumptions governing the burdens of producing evidence in legal proceedings, notes: "Placing a burden of production on a party does provide a sanction for failing to produce evidence – dismissal or a directed verdict – but the sanction is a function of the meaning of a burden of production rather than an independent attribute of presumptions." (Allen 1981, p. 860).

and at worst plainly useless. It disappears to give way to a number of more precisely defined concepts such as (the most plausible) hypothesis, assumption (e.g., *caeteris paribus*), partly corroborated and thus tentatively accepted results, etc. (see Freeman 2005; Godden forth.; Rescher 2006). Yet, all these technical concepts, when more or less directly related to the notion of presumption, and even more so to the notion of presumption in ordinary conversation, can be understood as elements of the necessary network of beliefs, taken-for-granted assumptions or background practices of a certain community, whether scientific, professional or layman. We can presume that anything that belongs to that background follows broadly recognised results in accordance with verified principles and therefore will, all other things being equal, happen as it did in the past. There can be no mutual understanding and meaningful conversation without these being taken for granted.

The conclusion of the argument so far is this: By carefully tracing the norms—which define the rights and obligations and thus generate expectations—of speech act performance in normal conversations, we can trace the grounding and working of all kinds of presumptions. We can thus get a unified picture of what otherwise looks like a heterogeneous set comprising "foundations of qualitatively different types" (Godden and Walton 2007, p. 337).[23]

4 Conclusion

How do presumptions look like after all that? Not too well. Presumptiveness is a certain status inferred on propositions by language users and seemingly produced by heterogeneous sources. If a comprehensive set of these sources is correctly grasped—and this is what I aimed at, successfully or not—then presumptions cannot be produced in any way other than through these sources. In this way, they become epiphenomena: by-products of certain primary phenomena, which are in themselves necessary and sufficient to explain the functioning of both the phenomena and epiphenomena. Any consistent theory of epiphenomena is unattainable, as it always collapses into a theory of primary phenomena, as only the latter can do the appropriate explanatory work needed in any theory.

If this argument carries the day, then the study of presumption always collapses into the study of other, likely more fundamental, concepts.[24] Above, I named a few

[23] When they discuss various ways to defeat presumptive inferences, Godden and Walton start with the one where we rebut "the antecedent facts, or presumption raising conditions": "Since these claims work as assertions of fact in an argument, no special theory of how they are to be defeated is required here; the normal rules of the argument would apply" (2007, p. 338). My argument can be seen as extrapolating their claim to other uses of presumption in argumentation. If this argument can indeed be generalised, then no special theory of presumption is required; the normal rules of argument – or any other reasonable conversation – apply. I hope to have showed what these rules are.

[24] Importantly, this priority can be understood in two senses: historically (diachronically) and conceptually (synchronically). In the obvious historical sense, Aristotle theorised about acceptable premises before Freeman, about presumptive inference schemes before Walton, etc. Conceptually speaking, for instance, Davidson's notion of charity or Searle's satisfaction conditions for speech acts belong to a more complete and powerful account of meaning and language than Kauffeld's presumption of veracity. Both senses, however, warrant a kind of reductionist argument I have been advancing here.

of them: the principle of charity, *topoi* (acceptable warrants), *endoxa* (acceptable premises), etc. Above all, the grounds and functions of presumptions can be grasped in terms of the (semantic and pragmatic) norms governing the performance of speech acts in conversations. Does it render presumptions—by Occam's Razor—altogether redundant in argumentation theory? Perhaps even if various types of presumptions are secondary phenomena with heterogeneous foundations, functions and fields of application, the very notion itself captures some otherwise hidden common thread, some unifying function with added explanatory value? At this stage, I can only treat it as a challenge to argumentation scholars to find the unifying value of the notion of presumption. Presumably, *they* have the burden of proof on this.

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