Reviewing Argument Schemes for Legal Arguments of Statutory Interpretation

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ABSTRACT

The current legal paradigm assumes that legal decisions must be justified. Judges use arguments as tools to accomplish this justification. Thus, this research presents an analysis to explain and illustrate arguments of statutory interpretation, given that the plain language of legal rules is not always sufficient to give all the answers needed for a legal decision. The theoretical analysis presented here, based on the relevant literature, aims to review some of the main concepts necessary for legal arguments of statutory interpretation and their possible relation to argument schemes. The reviewed arguments schemes advance arguments that avoid absurd results, as well as those that reflect the legislation's purpose and the legislator's intention. Overall, this study demonstrates how one can present arguments or evaluate and reconstruct them in the legal field. Specifically, reviewing argument schemes for legal arguments of statutory interpretation can help refine some of the main features of legal argumentation and highlight the necessary interpretation to accomplish them.

Keywords: legal argumentation; argumentation theory; argument schemes; argumentation; legal interpretation.

Revisión de los esquemas argumentativos para los argumentos legales de interpretación estatutaria

RESUMEN

El paradigma actual de la ley asume que las decisiones legales deben estar justificadas. Los jueces usan argumentos como herramientas para obtener dicha justificación. Por ello, esta investigación presenta un análisis para explicar e ilustrar argumentos de interpretación estatutaria, teniendo en cuenta que el lenguaje llano de las sentencias no siempre es suficiente para dar todas las respuestas necesarias para tomar una decisión legal. El análisis teórico que aquí se presenta, basado en la literatura relevante, tiene como objetivo revisar algunos de los conceptos principales necesarios para los argumentos legales de interpretación estatutaria y su posible relación con esquemas argumentativos. Los esquemas argumentativos revisados impulsan argumentos que evitan resultados absurdos, así como aquellos que reflejan el propósito de la legislación y la intención del legislador. En términos generales, este estudio demuestra cómo puede uno presentar argumentos o evaluarlos y reconstruirlos en el campo legal. Específicamente, revisar estos esquemas argumentativos de interpretación estatutaria puede ayudar a refinar algunas de las características principales de la argumentación legal y a resaltar la interpretación necesaria para lograrlo.

Palabras clave: argumentación legal; teoría de la argumentación; esquemas argumentativos; argumentación; interpretación legal.

Revisão dos esquemas argumentativos para os argumentos legais de interpretação estatutária

RESUMO

O modelo atual da lei assume que as decisões legais devem estar justificadas. Os juízes usam argumentos como ferramentas para obter dita justificação. Para isso, esta pesquisa apresenta uma análise para explicar e ilustrar argumentos de interpretação estatutária, levando em conta que a linguagem clara das sentenças nem sempre é suficiente para das todas as respostas necessárias para chegar a tomar uma decisão legal. A análise teórica aqui apresentada, fundamentada na literatura relevante, tem por objetivo revisar alguns dos conceitos principais necessários para os argumentos legais de interpretação estatutária e sua possível relação com esquemas argumentativos. Os esquemas argumentativos revisados impulsam argumentos que evitam resultados absurdos, assim como aqueles que refletem o propósito da legislação e a intenção do legislador. De um modo geral, esta pesquisa demonstra como alguém pode apresentar argumentos ou avalia-los e reconstruí-los no campo legal. Especificamente, revisar estes esquemas argumentativos de interpretação estatutária pode ajudar a refinar algumas das principais características da argumentação legal e a destacar a interpretação necessária para alcança-lo.

Palavras-chave: argumentação legal; teoria da argumentação; esquemas argumentativos; argumentação; interpretação legal.

INTRODUCTION

Understanding argumentation is an important issue not only for lawyers and judges, but also for ordinary citizens who are concerned about the law's place in society. To this end, I undertake a theoretical analysis about argumentation. The research I present here is a further development of my master's dissertation in Law, conducted at the *Universidade Federal do Rio de Janeiro*, Brazil. The research received financial support from the Brazilian agency "*Coordenação de Aperfeiçoamento de Pessoal de Nível*" (CAPES). The theoretical developments presented here aim to help illustrate and clarify argumentation by looking at basic argument construction methods and their main characteristics. I particularly consider the legal arguments of statutory interpretation.

To achieve that aim, this article explains what it means by argumentation, as its focus is on institutional argumentation, which gives a great importance to authority. The analysis is based on arguments that stem from one of the authoritative sources of law, namely legal texts and their interpretations, which can also be called arguments from statutory interpretation. Accordingly, I demonstrate some types of legal arguments and detail a few argumentation methods from legal interpretations, for it is necessary to present arguments to justify their interpretations. I represent the arguments in argument schemes and develop an account based on Macagno and Walton (2017), focusing on arguments from the following perspectives: the purpose of legislation, avoiding absurd results, and the legislator's intentions.

Thus, I present a theoretical analysis based on the relevant literature to illustrate some of the main concepts needed for legal arguments of statutory interpretation. I take these concepts and elaborate on them through argument schemes that are used to demonstrate how one can argue in the legal field, albeit these schemes can also be useful for evaluating, reconstructing, and standardizing arguments. Overall, the process of reviewing argument schemes for legal arguments of statutory interpretation can increase our understanding of legal argumentation's main features and the interpretations necessary to effectively execute these arguments.

1. WHAT KIND OF ARGUMENTATION?

We can understand arguments as a series of connected statements, declarations, or propositions that support a conclusion or provide reasons to establish a conclusion. In other words, arguments always have something to prove. Argumentation involves exposing reasons to believe in a proposition, which may be in favor of or against something. As such, arguments can have different uses (Sinnot-Armstrong & Fogelin, 2014), depending on the different contexts in which argumentation occurs. This research centers on the legal decisions of judges and their use of arguments to justify their decisions. In other words, this study is concerned with the reasons that justify a

conclusion applied to the legal context. Other types include motivating and explanatory reasons, but these are not the focus of this study (Alvarez, 2018).

Argumentation studies have contributed to highlighting two important types of arguments: (1) theoretical arguments, which try to prove or sustain that something is the case by providing reasons in favor of a descriptive proposition's veracity or falseness, and (2) practical arguments, which give reasons for actions, concerning whether or not one should do something (Shecaira & Struchiner, 2016a). This differentiation is significantly relevant for legal decisions, because the context is often practical. However, this does not mean that only practical argumentation occurs in the legal field. For instance, the conclusion of a ruling or opinion indeed involves practical argumentation, as the result has practical effects on the lives of several people (e.g., if the defendant should be imprisoned, if a fine should be paid, etc.), but theoretical argumentation is used when arguing about facts. As such, judges' arguments revolve around practical reasons for doing or not doing something, but not all arguments presented in the legal decision-making process are practical.

Furthermore, practical argumentation can also be separated into two types: (1) substantive arguments, employing moral, political, economic, and social reasons; and (2) institutional arguments, reflecting the predominant argumentation in the legal field that cannot freely adapt considerations outside of the law, as these arguments are based on the rules of the related governing institutions (MacCormick, 1993). The two types achieve conclusions based on different reasons and in different ways. Overall, most practical arguments have substantive characteristics because they are more commonly used by different agents in several contexts.

As a judge's legal argumentation is public, I follow Bertea's (2017) deductions that practical reasons are public, rational, and impersonal considerations. For conceptual clarity, I use the term legal argumentation, not legal reasoning. Although some authors use the terms interchangeably, 'reasoning' may involve an agent's internal process and not necessarily a public practice, which is the focus of this study. It is noteworthy to consider that judges' practical arguments bring forward justifying reasons for their conclusions. These reasons, which are practical and public, bind individuals to adhere to what has been rationally argued. However, such public and rational developments of practical reasons are not solely tied to legal argumentation. It is a standard applicable to all types of practical argumentation, because of the characteristics of practical reasons. It is also important to emphasize that judges should not take private considerations into account when deciding and arguing for their decisions (e.g., preferences, interests, and personal motives). Their decisions should be constructed on the grounds of what the law requires for a case in a rational and impersonal manner. For any individual who visualizes their arguments, the reasons for their conclusions should appear as guides for actions.

Moreover, several sources of law can argue for the justification of a legal decision. The status of such sources depends on the legal system and the field of law in question. For example, "in continental law systems, legal rules codified in statutes and treaties are legal sources that have, in principle, an authoritative status as argument in justifying a legal decision" (Feteris, 2017, p. 8). This authoritative or compulsory status is a relevant feature of the law. A dominant characterization of authority indicates that its prescriptions are independent of their content (Hart, 1982). In other words, its strength stems from who establishes the prescriptions and not from what these prescriptions establish.

Additionally, in everyday life, it is common to make decisions based on what we deem better or more appropriate, meaning that we decide based on substantial reasons. The same does not always occur in the legal field, where something may be done solely based on an authority's declaration. Thus, constructing arguments based on prescriptions of authority is an important aspect of the law. For instance, if a piece of valid and promulgated legislation declares that it is forbidden to cross the road beyond the limits of a crosswalk, for legal actors, this is a sufficient reason to justify always using the crosswalk and the state's enforcement of such a law, even if we may find substantial reasons to not follow it in our daily lives.

In other words, arguments stating that something must be done because a law so determined are adequate and reasonable for practical institutional argumentation. As another example, a prosecutor may argue that an individual committed a murder. As murder is a punishable act in the eyes of the law, the individual must be arrested. This argument, based on the authority of the law, compels the judge to arrest the individual. Although following authoritative sources is an important characteristic for legal decisions, other considerations can reject these sources. Evidently, this does not occur frequently, but sometimes, the literal meaning of the law is abandoned, or a precedent is overcome.

Overall, argumentation in the legal field places a high importance to authoritative sources. A mandatory source of law must always appear in a judicial decision, –even if this is not the only means by which a judge can present a legal argument. Schauer (2009) provided an example that captures this concept of authority: there is an important difference between learning to do something in a book and blindly following what a book says. The latter represents the law's authority. It requires no persuasion as to its merits, for it is the authority that must be "blindly followed." This is certainly an exaggeration that serves to demonstrate the concept of authority. In actuality, society should always view the law critically to guarantee justice.

Given the importance of authority in the legal arena, this article's development is based on arguments that come from one of the authoritative, immediate, and obligatory sources of law. These sources represent those that a judge must apply and cannot

ignore. Accordingly, the presented arguments stem from legal texts and their interpretations, which can also be called arguments from statutory interpretation.

2.   ARGUMENTATION AND LEGAL INTERPRETATION

Arguments from statutory interpretation emerge through considerations of the existing legal text. In most legal systems, these texts are the primary sources of law (Huhn, 2014). Nowadays, it is common to find a plethora of written legal provisions, even outside of the civil law systems, which are known for their extensive accumulation of written legislation. Moving from the text as a source of law to the clear formulation of a rule for a case is not always a simple task. A process of interpretation is often necessary and involves discerning the meaning of legal texts. It begins by examining the related legal texts in their literal sense, even if this does not always provide all the answers. From there, one must consider the different ways of approaching legal interpretations. This process can evidently result in different interpretations, which has caused numerous debates on the possibility of a single correct interpretation. Although Dworkin (1986) provided the most prominent inquiry into this possibility, his position does not seem to be dominant in the field of legal theory. What stands is that a choice must be made between the possible interpretations.

An interpretation depends on the context in which it is inserted. As such, interpreting a criminal law differs from interpreting an administrative law, due to the different contexts. The same applies to the roles that people play. Judges, lawyers, and prosecutors could interpret the same law in different ways. Thus, one should use some discretion when interpreting a legal text. As an interpretative choice must be made, an argument is required to justify the decision, but this process of interpreting statutes has one considerable limitation: the need for at least a minimal fidelity to the text being interpreted.

Within a legal text, there are different approaches that can count as an interpretation. The first form addressed here is "textualism," in which the interpreter must follow the simple and ordinary meaning of the words that make up a legislation, giving less weight or no weight at all to other forms of interpretation. This method can also be called formalist, as the text holds priority (Shecaira & Struchiner, 2016b, p. 75). The language in legislation may express clear rules, such as "it is forbidden to drink alcoholic beverages under the age of 18," or set a standard, depending on the time, place, and circumstances in which it is read. One example of this is "being in the best interest of the child," applicable to cases of parental guardianship. Even though the cases may be different, the text always provides at least the starting point.

To interpret the text, it is necessary to use our common understanding of a language, not only dictionary definitions, as the dictionary's meaning may not reflect the intended contextual meaning. Although a law's related text is the most direct way

to guide a judge's actions, the language of these texts does not always provide responses or can even offer inadequate responses, particularly when the language is ambiguous and/or indirect (e.g., "excessive," "unreasonable," or "best interest"). In these cases, the judge must look beyond the plain text, but that does not mean that the statutes offer no guidance. In this regard, Hart's (1994) example of a ban on vehicles in a park illustrates how legislation has established a core of meanings. Everyone would acknowledge that cars or trucks would represent vehicles for which such a ban is applicable. However, there are also penumbra cases, in which there are controversial applications. For example, would a skateboard or bicycle be forbidden in the park?

One way to solve such cases would be to interpret the rule based on the legislation's purpose or intention (teleological-subjective interpretation), but whether this purpose should be determined based on the legislation's history, the text itself, or a judge's recreated intention remains controversial. As there are many potential options, determining a correct procedure to define the purpose of a statute is still a debatable matter. For instance, if we consider the history approach, one would have to sift through several written documents and videos of debates that reveal what lawmakers believed or what committees understood when reviewing the law. Such an analysis is complex, because different legislators may present different reasons for a law's enactment. Therefore, it is difficult to determine a single purpose for a law and often necessary for the judge to construct the purpose, instead of trying to find it within the sources that promulgated the statute.

Another important point is that the purpose, as a general rule, should not triumph over textuality, except in absurd cases. Purposes are not always written or accessible, but the statute is, as well as its related history (Sustein, 2018). Generally, these purposes are reconstructions, created by looking back at different sources, but a law can sometimes reveal its purpose in some of its provisions, such as, "this statute asserts the integral protection of children and adolescents." This process can be considered an intratextual interpretation, when one part of a legal text is used to interpret another (Huhn, 2014, p. 25). Thus, as a statute's purpose is not always clear, it is necessary to evaluate the related pieces of legislation to construct a justified interpretation.

Regarding Hart's (1994) case, one could analyze the vehicle ban from the perspective of its purpose. For instance, if the law aims to protect pedestrians, bicycles could be banned. In this case, when the law's purpose is unclear, the judge would use discretion to decide the correct interpretation. Although it is clear that a pedestrian does not fit the vehicle prohibition rule and a truck does, other cases would require constructing arguments to permit or prohibit certain vehicles, such as skateboards and bicycles. These penumbra cases can be considered hard cases. They can occur based on linguistic indetermination, as with vehicles, or when the rule's literal provision can produce controversial or absurd results.

Such cases of absurd results are difficult, not because of the language's indeterminacy, but because the answer provided by the text is not desirable by social standards. For example, a law declares a 40km/h speed limit in the urban perimeter, with a fine penalty in case of disobedience. A young man passes the perimeter at 80km/h, because he is driving a person in a critical health condition. The practical context here justifies his actions. As a result, the law can be overruled, after a necessary presentation of arguments that clarify why applying the rule would be inadequate or undesirable. In other words, one should ensure that a statute's text does not end up generating an absurd result. In this case, punishing the young man is not desirable, despite the legal text's provisions, and the judge would use arguments to justify why the rule should not be applied. Overall, a legislation's language is not enough to provide all the answers for actual cases. It is indispensable that judges look at different sources of interpretation to achieve a result. Although the type of interpretations judges should appeal to is still disputed, I aim to present a few of options.

3.   ARGUMENT SCHEMES OF STATUTORY INTERPRETATION

As there is no exclusive way of formulating arguments that justify interpretations, argument schemes can be useful for demonstrating how one can present such arguments. Thus, this section aims to use these schemes to represent arguments of legislative or statutory interpretation. I develop an account based on Macagno and Walton (2017), who listed generic categories of interpretative arguments that occur in law and offered schemes. They created this list based on other lists proposed by relevant scholars, such as Tarello (1980) and MacCormick and Summers (1991). The interpretations I present, matching some of those on Macagno and Walton's (2017) list, aim to illustrate how one can formulate the arguments of interpretation discussed earlier.

Argument schemes can be defined as representations of argument types, which "are forms of argument (structures of inference) that represent structures of common types of arguments used in everyday discourse" (Walton et al., 2008, p. 11). Such arguments develop from the semantic relations between the propositions involved, combined with a reasoning structure (e.g., deductive, inductive, abductive, etc.). Argument schemes can provide abstract argument representation patterns that can support or attack a conclusion or decision. These arguments do not suggest how judges should in fact argue. Rather, they exemplify argument types and evaluate the construction of different arguments. The following quote, represented in the form of a defeasible *modus ponens*, can serve as an example that demonstrates an argument scheme:

> "If a sentence\term X has the property P, then X should (not) be given meaning M.
>
> This sentence\term X has the property P.
>
> Therefore, X should (not) be given meaning M" (Macagno & Walton, 2017, p. 6).

This scheme uses a generic structure that interpretive arguments may employ. For clarity purposes, I insert the following fictitious example within the same scheme:

If "integral protection of children and adolescents" (term X) has the property of "generating an absurd result when understood in relative terms" (property P), then the phrase "integral protection of children and adolescents" (term X) must be given the meaning of "absolute, total, non-restrictive protection in relation to any other legally protected interest" (meaning M).

The phrase "integral protection of children and adolescents" (term X) has the property of "generating an absurd result when understood in relative terms" (property P).

Therefore, "integral protection of children and adolescents" (term X) must be given the meaning of "absolute, total, non-restrictive protection in relation to any other legally protected interest" (meaning M).

This argument only reflects a portion of a judge's entire decision. It would also be necessary to argue why the result would be absurd, but this part of the argument does not pertain to the legislation's interpretation per se, only to its outcome, which varies significantly based on context, and is, thus, beyond the scope of this analysis. It is possible to replace the scheme presented above with more particular ones, according to the intended interpretation, and this would provide a greater specificity to the interpretative argument. Thus, I will try to apply certain schemes to hypothetical cases and follow them as faithfully as possible. In legal practice, it may be more interesting to adapt and present the arguments according to the needs of textual coherence and cohesion.

3.1 The legislation's purpose

The first interpretative argument I examine reflects the purpose of the law, what Macagno and Walton (2017) identified as a teleological argument. In this argument, the interpreter tries to reconstruct the purpose for which a given legislation was enacted, going beyond the law's text. It can be exemplified in the following argument scheme that centers on a practical reason:

> "Major Premise: I have a goal G.
>
> Minor Premise: Carrying out this action A is a means to realize G.
>
> Conclusion: Therefore, I ought (practically speaking) to carry out this action A." (Walton et al., 2008, p. 323).

The following is a more practical example.

Major Premise: Article 165 of the Brazilian Traffic Code has the purpose of punishing a driver who is not in a condition to drive, due to being under the influence of debilitating substances (goal G).

Minor Premise: Listing barbiturates as a substance that impedes an individual's ability to drive (action A) is a means of punishing the driver (goal G).

Conclusion: Therefore, I must (practically speaking) list barbiturates as a substance that impedes an individual's ability to drive (action A).

It is important to point out that the purpose set forth in the argument is one that the judge can attribute to the statute. As such, the example has a different structure in relation to the scheme. This scheme had to be adapted, because it assigns the purpose to the agent, not the legislation. Overall, the scheme the authors provide represents more general teleological arguments, as well as those concerning legislative interpretation, and seems to have little relation to the general scheme of legislative interpretation proposed previously. Thus, I suggest another example that seems more adequately related to the general scheme and give an account of teleological arguments for the purposes of legislative interpretation. To recapitulate: If X has the purpose P, then X must (or not) be given the meaning M. X has the purpose P. Therefore, X must (or not) be given the meaning M.

This can be adapted as follows:

If the phrase "driving under the influence of alcohol or any other psychoactive substance that determines dependence" (sentence X) has the purpose of punishing a driver who is under the influence of debilitating substances and is not in a condition to drive (purpose P), then to "drive under the influence of alcohol or any other psychoactive substance that determines dependence" must be given the meaning of "any substance, even those that are legally permitted" (meaning M).

The phrase "driving under the influence of alcohol or any other psychoactive substance that determines dependence" (X) is intended to punish the driver who is under the influence of debilitating substances and is not in a condition to drive (P).

Therefore, "driving under the influence of alcohol or any other psychoactive substance that determines dependence" (X) must be given the meaning of "any substance, even those that are legally permitted" (M).

This is just one possible way of presenting arguments from the purpose of statute. By no means am I saying that judges should strictly follow these schemes to argue, and one should also note that these schemes are defeasible. Critical questions are important, because they help us evaluate an argument and raise points that require further explanation, which can counter the argument if not answered (sometimes temporarily until the answer is given). Overall, one can pose the following questions to determine applicability:

a) Does the sentence\term really have that purpose?

b) Are there other purposes that the sentence\term allows that may be conflicting?

c) Is this the only interpretation that can lead to meaning M? If not, is this the best interpretation for the case at hand?

d) Are there other consequences for giving the sentence\term the meaning M?

As a general rule, critical questions provide criteria for the acceptability of argument schemes (Walton & Godden, 2005). However, the questions above are simple examples that do not reflect all possible requirements for an acceptable argument. Overall, these schemes carry a certain weight in their potential conclusions that are based on reasons, which can frequently be countered in light of new information or evidence.

3.2 Avoiding absurd results

As noted earlier, absurd results are undesirable. To avoid absurdity, one can present a *Reductio ad Absurdum* (reduction to absurdity) argument, usually employed if a literal application of a legal text leads to an absurd result. As the argument is based on the possible results, it can also be called an argument from consequences. Its general structure is as follows:

"Premise 1: If A is brought about, good (bad) consequences will plausibly occur. PREMISE 2: What leads to good (bad) consequences shall be (not) brought about.

Conclusion: Therefore, A should be (not) brought about" (Macagno & Walton, 2017, p. 71).

The scheme implies that if the legislation is applied, under the set terms, it will lead to an unacceptable result for different reasons. It is understood that a rational legislator would not target applications of a law that would lead to absurd or unreasonable results. Such an argument merely excludes some possible status interpretations. The problem here is that what can be considered absurd is debatable and therefore, ambiguous. However, in general, absurd results are usually determined by practical or ethical criteria.

If we revert back to the case of the man driving 80km/h in a 40km/h zone, because of the gravely ill person he is carrying, the scheme can serve to explain the potential argumentation.

Premise 1: If the penalty of a fine is brought about, bad consequences will plausibly occur.

Premise 2: What leads to bad consequences should not be brought about.

Conclusion: Therefore, the penalty of a fine should not be brought about.

The example shows how by virtue of a possible absurd result, one should not conduct a literal interpretation of the law. In this case, a fine is not a deserved punishment, because there are circumstances that take precedence over the text of the law. Nonetheless, the scheme only considers an indirect relationship with the use of *reductio* in the field of legislative interpretation and the authors do not offer one that

directly represents the *reductio* in such a field. Thus, keeping in mind the general scheme, one can make some changes to better reflect the argument's purpose. Here, I propose a modified scheme, followed by a practical example.

Premise 1: If phrase X has the property of generating bad consequences when interpreted literally, it should not be interpreted literally. Premise 2: Phrase X generates bad consequences if interpreted literally. Conclusion: Therefore, phrase X should not be interpreted literally.

Premise 1: If the phrase "the speed limit in an urban area is 40km/h and disobedience will result in a fine penalty" (phrase X) has the property of generating bad consequences when taken literally, it must not be interpreted literally. Premise 2: The phrase "the speed limit in an urban area is 40km/h and disobedience will result in a fine penalty" (X) generates bad consequences if interpreted literally. Conclusion: Therefore, the phrase "the speed limit in an urban area is 40km/h and disobedience will result in a fine penalty" (X) should not be interpreted literally.

I suggest this change because schemes for each type of interpretive argument must refer to sentences/terms in the law, as Macagno and Walton's (2017) general scheme highlights. Otherwise, the scheme would not be applicable to arguments concerning the law's interpretation, because when interpreting the law, the focus should be on the text and its properties. Once again, one can use critical questions to ensure the argument's acceptability:

a)   Are the consequences really bad? If so, why?

b)   Is the result directly linked to the literal interpretation?

c)   Are there other possible consequences of the literal interpretation that could outweigh the bad consequences?

d)   Will interpreting the phrase literally bring about other consequences? Are these possible consequences (un)desirable?

These few examples of useful questions, which serve to evaluate the presented argument, can provide answers that help us determine if the interpretation can be considered enough evidence regarding the consequences it is trying to avoid and the consequences that may emerge from the interpretation itself.

3.3 The legislator's intention

In this final subsection, I will exemplify arguments of interpretation based on the legislator's intention. The following scheme can be attributed to this argument:

Minor Premise: Source L is an authority involved in (passing, drafting, amending) the statement of law A. Major Premise: L (passed, drafted, amended) proposition

> A intending A1. Conditional Premise: If source L is an authority involved in (passing, drafting, amending) the statement of law A, and L intended the interpretation A1, then A1 may plausibly be taken to be the right interpretation. Conclusion: A1 may plausibly be taken to be the right interpretation. (Macagno & Walton, 2017, p. 65)

This argument scheme implies recognizing the legislator as an authority, specifically an administrative authority, which according to the authors, is comparable to a type of practical authority. The above scheme is the most detailed way of displaying an interpretative argument based on the legislator's intention. The following example applies the scheme to a tangible context:

Minor Premise: The source "Democrat Party" (L) is an authority involved in drafting the statement of law "integral protection of children and adolescents" (A). Major Premise: The Democrat party (L) drafted the proposition "integral protection of children and adolescents," intending "integral protection" to mean total protection, not restrictive in relation to any other legally protected interest (A1). Conditional premise: If the source "Democrat Party" (L) is an authority involved in drafting the statement "integral protection of children and adolescents" (A) and the Democratic Party (L) intended to interpret "integral protection" as total protection, not restrictive in relation to any other legally protected interest (A1), then total protection, not restrictive in relation to any other legally protected interest (A1) may plausibly be taken to be the correct interpretation. Conclusion: The total protection, not restrictive in relation to any other legally protected interest can plausibly be considered the correct interpretation.

As noted earlier, such schemes are defeasible, meaning that they can be tested with critical questions, namely:

1. Authority Question: Shall L be considered as an authority (the law is independent from the will of the legislator)?

2. Role Question: Who is L (the majority, the most influential, the representatives) and what role has he played?

3. Opinion Question: What did L assert that implies A1?

4. Consistency Question: Is A1 consistent with the intention of other Ls that passed the same law?

5. Coherence Question: Does A1 lead to any antinomy or incoherence in the legal system? (Macagno & Walton, 2017, p. 66)

These questions can assess whether the legislator's argument of intent is adequately formulated and acceptable. If the argument can answer the critical questions, then it has been developed properly. These are just some construction possibilities for arguments of statutory interpretation. In no way is this list exhaustive, as the aim

was to solely present a few that could benefit from clarifications. Overall, the schemes can elucidate these arguments and their structures, provide standards that are helpful to evaluate and test their development adequacy in light of the available information.

CONCLUSIONS

This paper analyzed some legal arguments and found their most prominent characteristic to be their institutional nature, a feature that can be considered predominant in law. This implies following promulgated rules and standards, taking into account "the rules of the game." In other words, the law does not necessarily propose to achieve the best results in the cases it judges, although it avoids absurd results. Rather, it tries to offer as much treatment coherence as possible for different cases by providing a certain predictability. Thus, it is necessary for the judge to interpret a piece of legislation. As there are different ways of approaching this interpretation, the judge will have to choose between interpretive methods and employ some degree of discretion.

Moreover, an authoritative disposition must appear at some point in the argumentation: it must justify a judicial decision by referring to some mandatory sources of law. After understanding these authoritative dispositions, I aimed to provide some argument examples. The exemplification was established from one of the mandatory sources of law, the statutory interpretation, for it is commonly employed in different legal systems. I attempted to show some ways of approaching these law interpretations and turning them into arguments.

These demonstrations are not completely innovative, considering that Walton and Macagno's schemes were essential. However, there is always room for improvement, and schemes can be adapted to be more cohesive and better reflect their purposes. Although these schemes are not meant to be applied practically (i.e., to be followed by judges when making their decisions), they serve an important role in providing a theoretical depth to ensure that legal actors and citizens have the appropriate conceptual tools to evaluate or reconstruct the most diverse arguments put forward in the decisions of judges and courts.

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