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# What determines the strength of practical and cognitive presumptions?

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ABSTRACT: This paper investigates the relationship between practical and cognitive presumptions. It argues that two types of presumptions come with different conceptions of strength. While the strength of a practical presumption is supposed to be correlated with the weight of rebuttal, the strength of a cognitive presumption is correlated with the degree of a proposition's plausibility. However, the degree of plausibility is not necessarily correlated with the weight of the burden of rebuttal.

KEYWORDS: burden of proof, cognitive presumption, instrumental rationality, John Pollock, Nicholas Rescher, plausibility, presumption, strength, undercutting defeater

## 1. INTRODUCTION

This paper investigates the relationship between practical and cognitive presumptions. According to Ullmann-Margalit (1983) and Godden (2017), practical presumptions are best understood as non-epistemic means, claims that are *taken to be true* for non-epistemic ends (such as precaution or social safety) in the context of evidential uncertainty and deliberation pressure. By contrast, Rescher (2006) defines cognitive presumptions as epistemic means, plausible claims that are taken to be true in order to achieve epistemic ends (such as the acquisition of information or knowledge). In the context of dialogue, both types of presumption reverse the burden of proof: a particular presumption stands until or unless the opponent provides a sufficient reason against it.

I argue that the two types of presumption serve not only different contextual goals but also have different conditions of strength. While the strength of a practical presumption is supposed to be correlated with the weight of rebuttal, the strength of a cognitive presumption is correlated with the degree of plausibility. However, the degree of plausibility (e.g. the strength of evidential support for *p*) is not always correlated with the weight of rebuttal (i.e. how difficult it is to prove ~*p*). Leaning on Pollock's concept of an undercutting defeater I seek to show that cognitive presumption *p* may become weaker (less plausible) even though ~*p* has not become easier to prove.

In Sect. 2, I present some distinctive features of presumption. In Sect. 3, I focus on Rescher's account, and the difference between practical and cognitive presumptions. In Sect. 4., I explain the concept of an undercutting defeater and discuss the conditions that determine the strength of practical presumptions. Finally, I show that practical and cognitive presumptions have different conceptions of strength, and must be evaluated by means of different criteria.

## 2. THE GENERAL FEATURES OF PRESUMPTIONS

Originally, "presumption" is a legal notion, and presumptions have been controversial ever since their introduction in Roman law. Legal, as well as philosophical scholarship, offer many incompatible accounts of the nature, function, justification and the overall importance of presumptions.[1] However, the literature still recognizes a number of common, distinctive features of presumptions.

Let us begin with some paradigmatic legal examples. Probably the most famous, but also the most controversial legal presumption is the *presumption of innocence*. It is based on the rule of criminal law requiring that the accused should be treated as innocent until or unless his/her guiltiness is proved. Another example is the *presumption of death*. Here, the rule states that the person who has been absent (without any explanation) for more than seven years should be presumed dead until or unless there are good reasons to think differently. These presumptions are different in many respects, but they also have some general features in common.

I will present four general features of presumptions. First, a presumption is a modal status of a proposition that indicates the reverse burden of proof. Second, the purpose of a presumption is to enable dialogical progress or/and to prevent an infinite dialogical regress. Third, logically, presumptions are conclusions of presumptive reasoning. Finally, the justification of presumptions is ultimately instrumental (pragmatic) rather than theoretical.

### 2.1 Presumption as a modal status

In the standard view, presumptions are defined as claims that are appropriately qualified. In other words, proposition *p* counts as a presumption if and only if *p* is, either explicitly or implicitly, introduced with the modal qualifier/status "presumably" (see Ullmann-Margalit, 1983; Hansen, 2003; Rescher, 2006; Godden & Walton, 2007; Walton, 2014; Godden, 2017). But what does "presumably" mean?

First, the qualifier "presumably" modifies the speaker's commitment. It indicates that the speaker is only tentatively committed to *p*. For example, the parties in the legal dialogue are committed to "Presumably, John is innocent" but their commitment is only provisional—it is conditional upon the absence of sufficient reasons to think differently. Once sufficient reasons against the presumption are provided, the parties are obliged to retract their commitment.

Second, a modal qualifier modifies not only the speaker's commitment but also the status of a statement (Godden, 2017, p. 488). Presumptions are, thereby, statements with special deontic modality—"presumably" indicates a special distribution of probative obligations. In the standard view, "Presumably, *p*" indicates that, at the particular point in the dialogue, the proponent can use *p* in arguing *without providing* sufficient reasons for it. At the same time, "Presumably, *p*" allocates the burden of proof to the opponent—if the opponent disagrees with the acceptance of *p*, s/he *is* obliged to provide sufficient reasons against it. Accordingly, in a legal dialogue, the party who claims "Presumably, John is innocent" is not obliged to prove his/her case, while the disagreeing party is obliged to provide sufficient reasons for "John is guilty." Hence, the most fundamental feature of presumption is deontic in nature—"presumably" indicates that the qualified statement entails the reversed burden of proof (see, e.g., Pinto, 2001; Freeman, 2005; Rescher, 2006; Walton, 2014; Godden, 2017).

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[1] For the presentation of various approaches to the presumption in law see Gama (2017). For the similar presentation within the scope of argumentation theory see Godden & Walton (2007).

*2.2 The dialogical functions of presumptions*

But what is the typical dialogical function of presumption? In Bodlović's (2017, p. 518) words, the presumption reverses the burden of proof *in* the dialogue, but what does the presumption do *for* the dialogue? The answers to this question typically fall into two broad categories.

First, the function of presumptions is to enable dialogical progress.[2] Suppose that the argumentative dialogue seeks to resolve an urgent issue before a particular deadline.[3] Suppose that the deadline is approaching, that there is a pressure to resolve the issue "here and now," and that the resolution depends on whether *p* is the case. Suppose, however, that *p* is uncertain, i.e. that, in the present circumstances, there is no sufficient (or even any) reason to believe *p*. In these circumstances, the obligation to provide sufficient reason for *p* will get the dialogue stuck. But we obviously cannot afford this (since the issue is urgent) and we need an effective means to "unlock" the dialogue. The presumptive status of *p* is just that—it shifts the burden of proof to the opponent and allows us to proceed tentatively as if *p* is the case. The presumption enables the dialogue to make a desirable progress, to continue on a provisional basis toward the resolution of an urgent issue.

Second, presumptions have the function of preventing an undesirable dialogical regress.[4] Suppose that the dialectical rule concerning the burden of proof is universal, namely that every proposition introduced in the dialogue can be challenged and, if challenged, needs to be supported by the proponent. So, as soon as the proponent introduces *p*, the opponent is allowed to request the proof of *p*, and as soon as the proponent offers *q* to support *p*, the opponent is allowed to request the proof of *q*. This allows the opponent to sabotage the dialogue by challenging the proponent's claims *ad infinitum*. The problem that follows is quite famous—the proponent will be obliged to justify his statements *ad infinitum*, and s/he will never be able to prove his original thesis. In principle, this situation can happen although both parties are "playing by the rules."

The solution is to change the rules. As Rescher observes, the burden of proof rule should *not* be universal. It should have exceptions and, in fact, the very exceptions make the rule applicable. The chain of (providing) reasons must end somewhere (see Rescher, 1977, p. 33; 2006, p. 30). This leads us to the second function of presumptions—in dialogue, they make tentative starting points. By reversing the burden of proof, they prevent the dialogue to fall in the infinite regress and enable the proponent to defend his/her statement. Presumptions provide a solution to a dialogical variation of the famous skeptical problem of infinite regress.

*2.3 Presumption and presumptive reasoning*

Dialogically, presumptions perhaps form one class of basic premises but, logically, they are also conclusions of presumptive (defeasible) reasoning.

In the standard view, every presumption is drawn from some basic, presumption-raising fact, in accordance with a presumptive rule (see Ullmann-Margalit, 1983; Hansen, 2003; Rescher, 2006; Godden & Walton, 2007; Walton, 2014; Godden, 2017). For example, the legal *presumption of death* "Presumably, Steve is dead" is drawn from the basic fact

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[2] The main advocates of this purpose of (practical) presumptions are Ullmann-Margalit (1983), Godden (2017) and, occasionally, Walton (2008).

[3] Legal dialogues are good examples. After all, they cannot last forever—at some point, when all the available evidence is taken into account, the decision needs to be made. And sometimes it needs to be made even when the evidence is far from conclusive.

[4] The main advocates of this approach are Freeman (2005), Rescher (2006) and, occasionally, Walton (2008, 2014). Van Laar & Krabbe (2013, p. 210) also interpret presumptions as "non-fixed initial concessions." For the difference between presumptions that enable progress and prevent regress see Bodlović (2017, pp. 521-524)

"Steve has been absent (without any explanation) for more than seven years," in accordance with the presumptive rule "If the person has been absent (without any explanation) for more than seven years, then the person is presumed dead (until or unless there are good reasons to think differently)." The basic fact can be either an elementary or a complex statement. The presumptive rule is a conditional statement that is typically defeasible.[5]

*2.4 Instrumental justification of presumptions*

Apart from their conditional form and defeasibility, the crucial feature of presumptive rules is the instrumental (or pragmatic) justification. In the standard view, presumptive rules do not represent material or empirical generalizations (Ullmann-Margalit, 1983; Rescher, 2006; Godden, 2017) and this is clearly illustrated by the *presumption of innocence*. That is, the basic fact "John is accused" indicates John's guiltiness rather than John's innocence,[6] but the legal parties are still obliged to presume John's innocence. This clearly reveals that the presumptive rule "If X is accused, then, presumably, X is innocent (until or unless…)" cannot be epistemically or theoretically justified. Instead, it is instrumentally justified. The presumption of innocence is based on a procedural rule that serves to reduce a risk in deliberation (the risk of punishing innocent persons) and, more generally, to protect social (or moral) values (Ullmann-Margalit, 1983).

Importantly, even when a particular presumptive rule is consistent with the corresponding empirical generalization, its justification is still instrumental rather than theoretical. In the *presumption of death*, it is true that people who have disappeared for seven years without explanation are probably dead, but the presumptive rule primarily helps to proceed with practical matters—it enables deliberation progress in the circumstances of an evidential impasse or epistemic uncertainty. Typically, the presumption of death serves to enable the distribution of the missing person's estate when there is no conclusive evidence indicating either the person's life or death (Ullmann-Margalit, 1983, p. 146; Rescher, 2006, p. 27). So, the presumptive rule is empirically adequate, but its justification is not theoretical—it is the existence of instrumental reasons that "transforms" the empirically adequate conditional into a presumptive rule.

This ends my presentation of the general features or the standard characterization of presumption. In the next section, I will focus on Nicholas Rescher's theory. I will use Rescher's work to present different kinds of presumptions that may be subsumed under the standard view. More pointedly, I will explain the distinction between practical and cognitive presumptions.

## 3. RESCHER'S CHARACTERIZATION OF PRESUMPTION

Ever since his influential *Dialectic* (1977), the nature and role of presumptions have been common subjects in Rescher's theorizing. However, he recently developed a comprehensive theory of presumption in *Presumption and the practices of tentative cognition* (2006). I will mostly base the presentation and analysis of Rescher's theory on this recent work.

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[5] Although the legal literature recognizes the so-called irrebuttable, deductive or conclusive presumptions (see, e.g., Macagno, 2010; Macagno & Walton, 2012; Gama, 2017), paradigmatic legal presumptions are, as we have seen, defeasible.

[6] Without some evidence that he might be guilty, John wouldn't be accused in the first place.

Rescher's general characterization of presumptions is rather standard,[7] but his approach is especially interesting due to a specific domain of their application and analysis. Namely, together with Freeman (2005), Rescher is a rare example of a scholar who *primarily* studies presumptions in the epistemic context.

*3.1 Practical and cognitive presumptions*

In the standard view, all presumptions are instrumental and their legitimacy lies in their efficacy—good presumptions are effective means to achieve desired ends. However, presumptions can be applied in different contexts that include different kinds of ends. Two different kinds of ends are usually distinguished in the literature on presumptions: non-epistemic (non-alethic), and epistemic (alethic). Following Rescher's (2006, p. 27) terminology, a presumption that is a means to achieve a non-epistemic end (such as safety) I call *practical presumption*. By contrast, a presumption that is a means to achieve an epistemic end (such as the acquisition of information and knowledge) I call *cognitive presumption.*

Some scholars doubt that the concept of cognitive presumption has genuine theoretical importance. In an epistemic reading, they typically remark, "presumption" does not denote any novel or original phenomenon. That is, cognitive presumptions can probably be reduced to defeasible or *prima facie* claims and, in this case, they deprive the concept of presumption of its distinctive theoretical potential. According to Ullmann-Margalit and Godden,[8] presumptions become the matter of a genuine theoretical interest only if interpreted as a characteristic means to achieve practical ends in the context of epistemic uncertainty and deliberative pressure. We don't presume *p* for the epistemic purpose, due to the evidential support—we presume *p* for the practical purpose (e.g. safety) precisely when *p* is lacking sufficient evidential support, and there is a pressure to act "here and now" (see Ullmann-Margalit, 1983, p. 152; Godden, 2017, pp. 503-506). Along these lines, within the standard approach, presumptions are usually characterized as both instrumental *and* practical.

The legal presumptions of *innocence* and *death* serve to achieve non-alethic ends but practical presumptions do not belong only to the context of legal deliberation. In everyday contexts, we also often take propositions as true with various non-epistemic goals in mind. This is nicely illustrated by Bermejo-Luque. In her theory, presumptions are defined as "reasonable assumptions" (2016, p. 16), and

> assuming something may be adequate as a means … to *promote certain attitudes in others* (as when we presume the honesty of our kids or students—even against evidence!), or as a means to *increase efficiency* (as when we presume that everyone has read the document under discussion); or a *matter of politeness* (as when we presume that the person we invited to our home is trying to be kind to us); or even a *principled matter* (as when we presume the value of human life). (Bermejo-Luque, 2016, p. 12, emphasis added)

By contrast, cognitive presumptions amount to "policies, deemed effective in gaining knowledge" (Rescher, 2006, p. xii). Their justification is instrumental, but the ultimate goal is epistemic and their effectiveness is typically linked to evidence or the reliability of the corresponding epistemic source. In our terminology, they are instrumental but *not* practical.

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[7] Rescher claims that presumption is the status of a proposition (2006, p. 22). Also, he claims that the presumptive status indicates a provisional commitment (pp. 29-30) and reverses the burden of proof (p. 15). Furthermore, the presumption is linked to presumptive reasoning (p. 8) that includes a defeasible presumptive rule and a basic fact (p. 33). Finally, although their efficacy may depend on very different contextual goals, presumptions are always justified instrumentally (p. 53). When it comes to a dialogical purpose, Rescher emphasizes the role of presumptions in preventing an infinite regress (pp. 23-26).

[8] At times, also Walton (see 2008, 2014).

*3.2 The concept of cognitive presumption*

Cognitive presumptions have all the general features described in Sect. 2. However, unlike practical presumptions, they are tailored to acquire information. Let us briefly present two paradigmatic examples (Rescher, 2006, p. 31).

First, to be effective in gaining knowledge we should trust our senses and memory. Let us call this *the standard sources presumption*—if our standard cognitive sources (e.g., perception and memory) indicate *p* [basic fact], then we should take *p* as true [presumption] unless there are sufficient reasons to think that, in this particular case, standard sources may be wrong [defeater clause]. Second, in a long run, our prospects of acquiring information are better if we take as true the declarations of other people. Trusting people is much better default policy for acquiring information than doubting them. Let us call this *the testimony presumption*[9]—if some person asserts *p* [basic fact], then we should take *p* as true [presumption] unless there is a sufficient reason to think that, in this particular case, the person could be wrong [defeater clause]. So, when we seek to acquire information, "betting on" our senses, memory, and declarations of other people are, in a long run, cost-effective cognitive policies (2006, pp. 48-52).

Rescher defines the concept of cognitive presumption in terms of plausibility. Cognitive presumptions represent "truth-candidates, data that are no more certified *truths* than candidate-presidents are certified presidents" (2006, p. 37). But truth-candidacy is not enough—in order to gain presumptive status, a proposition needs to be *the most plausible* truth-candidate.

> Presumption favors the most *plausible* of rival alternatives–when indeed there is one. This alternative will always stand until set aside (by the entry of another, yet more plausible, presumption). (Rescher, 2006, p. 39)

The notion of plausibility plays, then, a crucial role in defining the cognitive presumption. For our present purposes, two things need to be mentioned.

First, in Freeman's (2005, p. 26) words, Rescher's concept of presumption is *singular*. There may be more presumptive rules operating simultaneously and there may be more incompatible truth-candidates but, at a particular point, only the most plausible truth-candidate may be presumed. Second, there are different sources of plausibility. Roughly, we may distinguish between evidential and non-evidential sources.[10] Evidential sources render the proposition plausible on the basis of evidential support or standard sources (perception, memory, testimony, etc.). Here, the proposition becomes a presumption if it is supported by stronger evidence or a more reliable source than any rival truth-candidate. By contrast, non-evidential sources render propositions plausible on the basis of principles such as simplicity, uniformity, normality, etc. (Rescher, 2006, p. 40). These principles become especially important when the evidence does not discriminate between the rival truth-candidates. For instance, if two rival truth-candidates are equally supported by evidence, one may presume the candidate that is closer to the "usual course of things" (normality) and coheres better with other cognitive commitments (2006, p. 41).

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[9] Closely related to this presumption is the *presumption of trust*—we shall presume that people are honest, i.e. that they mean what they say (Rescher, 2006, p. 89). But presuming the person's honesty is clearly different from presuming the truth of the person's testimony. For example, the opponent may have a sufficient reason to defeat the truth of a particular testimony without having any doubts concerning the testifier's honesty.

[10] Or, in Rescher's (2006, p. 40) terms, we may distinguish plausibility of the thesis warranted by evidentiation and plausibility of the thesis warranted by principles.

This ends my short presentation of practical and cognitive presumptions. In the final section, I will argue that practical and cognitive presumptions may be more different than the previous characterization reveals.


## 4. THE STRENGTH OF PRESUMPTION AND THE WEIGHT OF REBUTTAL

Practical and cognitive presumptions are similar in all the general respects, but there are clear material differences. First, practical presumption, unlike cognitive presumption, is not an *epistemic* status of a proposition. Second, practical presumption, unlike cognitive one, will serve to enable *deliberative*, rather than cognitive progress. Consequently, unlike cognitive presumption, a practical presumption will be justified if it is effective in accomplishing a *non-alethic* end. However, there is also a structural difference concerning the conditions of weakening.

In this section, I will argue that cognitive presumptions can be weakened by an undercutting defeater, while practical presumptions cannot. But before the argument is presented, the standard characterization of presumption's strength, as well as the notion of an undercutting defeater, must be explained.

### 4.1 What constitutes the strength of a practical presumption?

The strength of (practical) presumption is defined in terms of how much evidence is needed to overturn it (Godden & Walton, 2007, pp. 337-338) or, more precisely, how difficult it is for the opponent to rebut it. Technically, to *rebut* a proposition means to defeat a proposition by proving the negation (see Pollock, 1987, p. 485). So, when Ullmann-Margalit (1983, p. 152) claims that "an index of the strength of the presumption" is correlated with "the weight of the reasons ... required for the rebuttal," she claims that the strength of the presumption $p$ is measured by how much evidence is required to prove $\sim p$. In his chapter on legal presumptions, Rescher offers the same characterization.

> [P]resumptions will differ in strength according to just how much it takes to defeat them–that is, on just how great a burden of proof is being carried by anyone seeking to defeat them. Presumptions are *strong* or *weak* as their associated burden is *heavy* or *light*. (Rescher, 2006, p. 18)

This characterization, for instance, renders the *presumption of innocence* stronger than the legal *presumption of sanity*[11] because the former can be rebutted only by conclusive evidence, while the latter can be rebutted also by the preponderance of evidence (2006, p. 18). However, the weight of the burden of rebuttal depends on the importance of a particular practical goal. So, the practical presumption that is related to a more serious issue and serves to achieve more important non-alethic end will be more difficult to rebut and, thereby, stronger (Rescher, 2006, p. 18; Godden, 2017, p. 508). For instance, the presumption that serves to protect human life will not be as easily rebutted as the one promoting politeness.

In summary, the importance of a non-alethic goal determines the weight of rebuttal, and the weight of rebuttal determines the strength of a practical presumption.

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[11] According to this legal presumption, we shall presume that the accused was sane (in a right state of mind) when the crime in question was committed.

## 4.2 What is an undercutting defeater?

Let us now turn our attention to the notion of an undercutting defeater. This notion, crucial for our purposes, is quite famous in a contemporary epistemology. It played a major role in John Pollock's theory of defeasible reasoning. Put simply, an undercutting defeater *r* is a piece of evidence that attacks the reliability of the connection between the premise *q* and a conclusion *p*. In Pollock's words,

> [Undercutting defeaters] attack the connection between the reason and the conclusion rather than attacking the conclusion itself. For instance, "X looks red to me" is a prima facie reason for me to believe that X is red. Suppose I discover that X is illuminated by red lights and illumination by red lights often makes things look red when they are not. This is a defeater, but it is not a reason for denying that X is red (red things look red in red light too). Instead, this is a reason for denying that X wouldn't look red to me unless it were red. (Pollock, 1987, p. 485)

The undercutting defeater *r* is consistent both with the reason *q* and the conclusion *p*—it attacks neither *q* nor *p*, but the connection between *q* and *p*. In Pollock's classical example, "X is illuminated by red lights" is consistent both with the premise "X looks red to me" and the conclusion "X is red." However, "X is illuminated by red lights" is also consistent with the conclusion, for instance, "X is white." This renders conclusion evidentially uncertain and, from a purely epistemic perspective, we should suspend judgment as long as the undercutting defeater remains undefeated.

## 4.3 The strength of cognitive presumption and the weight of rebuttal

Departing from the previous characterizations, I will now argue that the strength of a typical cognitive presumption is not necessarily correlated with the weight of rebuttal. The cognitive presumption may be weakened even though the burden of rebuttal does *not* become any lighter, i.e. although it remains equally difficult to prove the contrary.[12] This is clearly incompatible with the standard (practical) definition of strength discussed above.

Once we accept Rescher's definition of cognitive presumption, a condition that determines its strength appears to be quite straightforward. Since the cognitive presumption is *the most plausible* truth candidate, we can expect that plausibility is a matter of degree and that the strength of presumption will be correlated with the degree of plausibility. Supposing that this is correct, and that *p* is a cognitive presumption, the following statement must be true:

> If *p* becomes less plausible, then (the cognitive presumption) *p* becomes weaker.

Furthermore, let us suppose that *p* is the most typical, evidential type of cognitive presumption, and that *p* loses plausibility by losing some evidential support. Therefore, we substitute "*p* becomes less plausible" with "*p* loses some evidential support."

> If *p* loses some evidential support, then (the evidential cognitive presumption) *p* becomes weaker.

This statement is also true. However, once we interpret a consequent "*p* becomes weaker" in accordance with the standard (practical) definition of strength, we get the following statement:

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[12] I assume that the weight of rebuttal is *not* determined *only* by the contextually appropriate standard of (dis)proof. In everyday contexts, we can expect that "proving the contrary" may become more or less difficult for the opponent even if the standard of (dis)proof remains fixed.

<div align="center">If <em>p</em> loses some evidential support, it becomes easier to prove ~<em>p</em>.</div>

This statement is false. By means of applying the notion of an undercutting defeater, it is not difficult to think of an example that satisfies the antecedent but not the consequent. Suppose that <em>q</em> is one <em>among many</em> evidential reasons for presumption <em>p</em> and that an undercutting defeater <em>r</em> defeats the reliability of a connection between <em>q</em> and <em>p</em>. In this case, <em>p</em> loses some evidential support (and the cognitive presumption <em>p</em> becomes weaker) but <em>r</em> does not make it any easier to prove ~<em>p</em>. (By definition, undercutting defeaters are <em>not</em> reasons to the contrary.) So, as long as the opponent's obligation to prove ~<em>p</em> is concerned, <em>r</em> is either irrelevant (at best) or equally destructive (at worst). Let us illustrate this by an example.[13]

1. Suppose you are sitting in the coffee bar and at the time $t_1$ you see a man walking a dog. Despite the distance, you can clearly see that the person must be either Smith or his *twin brother* Jones, your long lost high-school friends. So, by the supposition, there are only two truth candidates ("The person walking a dog is Smith" and "The person walking a dog is Jones"), and none of them is more plausible. Your visual impression (in conjunction with the information that brothers are twins) renders both truth-candidates equally uncertain and, consequently, no truth-candidate has the status of a cognitive presumption at $t_1$.

2. However, at time $t_2$, you hear a bartender saying "Look at that dog lover Smith over there!" Given the presumptive rule that you should "accept at face value the declarations of other people" (Rescher, 2006, p. 31), you start thinking that Smith is the person you are looking at. The testimony makes "The person walking the dog is Smith" the most plausible truth candidate, i.e. a cognitive presumption. It is important to notice that the basic fact, "The bartender asserts: 'Look at that dog lover Smith over there!'" is a complex statement. The bartender asserts two relevant claims: "The person walking a dog is Smith" and "Smith is a dog lover." To my mind, these claims provide independent (convergent) support for the cognitive presumption that the person in question is Smith.[14]

3. But just a few seconds afterward, at time $t_3$, you hear another person saying "Yeah, his brother Jones is a dog lover, too." From this moment, "Smith is a dog lover" cannot provide evidential support for "Presumably, the person walking a dog is Smith." Given that the person walking a dog is either Smith or Jones, and that both Smith and Jones love dogs, "Smith is a dog lover" is not a reliable indicator that it is Smith (and not Jones!) you are looking at. The presumption is, therefore, weakened. The evidence that used to provide some (albeit weak) support to "Presumably, the person walking a dog is Smith," does not provide this support anymore.

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[13] The example is formulated in a monological fashion and in terms of evidence, but it can be easily reformulated in dialogical terms where the allocation of the burden of proof will be more explicit.

[14] Let us start with the bartender's claim that "The person walking a dog is Smith." Since you have completely lost a contact with both Smith and Jones during the past, say, twenty years, it is reasonable to expect that they may not be living in the same neighborhood, not even in the same city. In these circumstances, the fact that the local bartender recognized Smith and not Jones must count as evidence that the person in question is, in fact, Smith. Also, in the circumstances where you don't know anything about Smith's or Jones' dog preferences, the bartender's claim "Smith is a dog lover," must count as evidence that the person walking a dog is Smith. As long as you don't know anything about Jones' dog preferences, the bartender's claim must make some evidential difference.

However, while "Jones is a dog lover" weakens the presumption, it does not make the contrary ("The person walking a dog is Jones") any easier to prove. To see this, let us approach the situation from the perspective of an imagined opponent. At time $t_1$, the opponent's "perceptual reason" supporting "The person walking a dog is Jones" is defeated by the existence of a twin brother and, by the time $t_3$, the evidential position of this statement does not become any better. At $t_3$, the imagined opponent possesses two pieces of evidence and they are both annulled by undercutting defeaters. The connection "The person walking a dog *looks like* Jones, therefore the person walking a dog *is* Jones" is undercut from the start by the existence of a twin brother Smith, and the connection "Jones loves dogs, therefore the person walking a dog is Jones" is undercut by the information that his twin brother Smith loves dogs, too. So, nothing that happened between $t_1$ and $t_3$ made the opponent's obligation to prove the contrary any less demanding. By contrast, the cognitive presumption that arose at $t_2$ surely became weaker at $t_3$.

In conclusion, the role of an undercutting defeater indicates that the strength of cognitive presumption cannot be properly expressed by the weight of rebuttal. It is correlated with the degree of plausibility, and the degree of plausibility is not necessarily correlated with the weight of rebuttal. This indicates a structural difference between practical and cognitive presumptions because when it comes to determining their strengths different mechanisms seem to be in play.


5. CONCLUSION

In this paper, I sought to show that the standard definition of the strength of presumption, associated with the so-called practical presumptions, cannot be applied to cognitive presumptions.

First, I explained the most general features of presumptions, widely discussed in the literature. In a standard view, all presumptions pertain to special deontic statuses. They are typically used to enable dialogical progress or to prevent dialogical regress by reversing the burden of proof. They are not stipulations but consequences of reasoning, and their ultimate justification is instrumental rather than theoretical.

After providing a general framework, I focused on the theory of Nicholas Rescher. I explained Rescher's notion of cognitive presumption and claimed that cognitive and practical presumptions (as understood by Ullmann-Margalit and Godden) entail different conceptions of strength. While the strength of practical presumption is supposed to be correlated with the weight of rebuttal, the strength of a cognitive presumption is correlated with plausibility. Due to the possibility of undercutting defeaters, the degree of plausibility does not need to correspond to the weight of rebuttal. This means that two types of presumptions are not weakened by the same set of conditions. Besides material differences, there is also a structural one.

The importance of this difference is primarily theoretical. Although the distinction between practical and cognitive presumptions is well-known, it still lacks detailed analysis. The purpose of this paper is to stress the importance of the issue, raise some relevant questions and, perhaps, provide some guidance for further investigations.

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