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Interpretative Argumentation Schemes

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Tarello (1980) identified fifteen kinds of arguments used for statutory interpretation, and later, MacCormick and Summers (1991) recognized eleven types of interpretive arguments. Building on this work, the aim of this paper, part of a wider research project, is to formulate argumentation schemes for statutory interpretation. To indicate the direction of this work, an example of one of the schemes is given along with a set of critical questions. Also, a brief indication is given of the extended example used to show how the schemes are to be fitted to the argumentation in a case.

In the example scheme below, E represents an expression (word, phrase, sentence) that was used in a document (source, text, statute) D where E can be given more than one interpretation ($I_1, I_2, . . .I_n$) in document D. In addition, E can be shown to be used in setting S_i of $S_1, . . ., S_{11}$.

Basic Interpretive Argumentation Scheme for Argument from Natural Language Meaning (NL)
Premise 1: Expression E (word, phrase, sentence) was used in a document (source, text, statute) D.
Premise 2: E can be given more than one interpretation ($I_1, I_2, . . .I_n$) in document D.
Premise 3: In D, E was used in one of the settings $S_1, . . ., S_{11}$.
Premise 4: In D, E is best interpreted as fitting the natural language setting S_i, of settings $S_1, . . ., S_{11}$.
Premise 5: To fit the natural language setting S_i, E should be given interpretation I_i.
Conclusion: In D, E should be interpreted as I_i.

Here is an example instance of scheme NL.

Premise 1: *Loss* was used in this statute.
Premise 2: *Loss* can be given more than one interpretation in document D.
Premise 3: In this statute, E was used in one of the settings $S_1, . . ., S_{11}$.
Premise 4: In this statute, *loss* is best interpreted as fitting the natural language setting.
Premise 5: To fit the natural language setting, *loss* should be given the interpretation *financial loss*.
Conclusion: In this statute, *loss* should be interpreted as *financial loss*.

Here are the six critical questions said to match the general scheme NL.

(CQ$_1$) Are there other natural language interpretations of E that should be considered?
(CQ$_2$) If there are other natural language interpretations that should be considered, what reasons are there for rejecting them?
(CQ$_3$) Why should the other natural language interpretations be taken to be better than the one selected?
(CQ$_4$) Are there other settings of D that should be considered for matching the meaning of E?

(CQ$_5$) If there are other settings that should be considered, what reasons are there for rejecting them appropriate for *D*?
(CQ$_6$) Why should the other settings be taken to be better than the one selected?

The six critical questions by no means indicate all the possible counterarguments that could be used to rebut or undercut an argument of one of these types that one is confronted with. Ultimately the only way to evaluate such arguments is to build an argumentation tree that provides an analysis of how the chains of argumentation on both sides of the disputed argument link in with each other.

The case concerned the question of whether someone who had come to the UK for education could count the period spent in the UK as "ordinary residence" in order to qualify for a mandatory grant under the Education Act. It depended on the natural language meaning of this term. Here is a small part of the argumentation tree used in a running example analyzed using Carneades Argumentation System (CAS), in which the ultimate conclusion always appears at the left. The schemes fit into the argument (round) nodes, a pro-argument is represented by a plus sign and a con argument is represented by a minus sign.
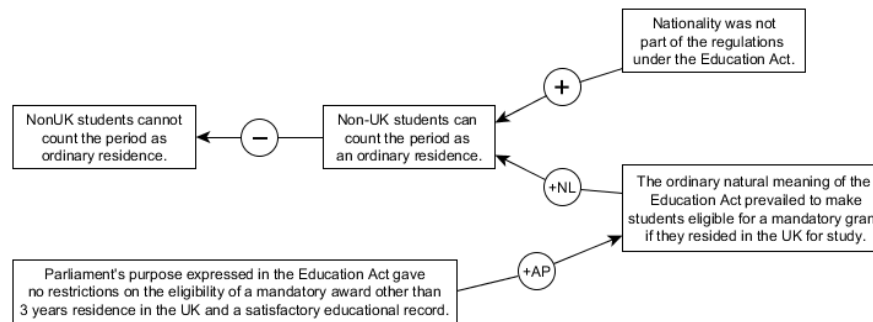

Figure 1: CAS Map of Part of the Educational Grants Example

The NL scheme is taken to represent the following kind of argument: a certain expression that occurs in a document is best interpreted as fitting with its usage in natural language, therefore in this document it will interpreted in the same way. The AP (argument from purpose) scheme is taken to represent the following kind of argument: a certain expression that occurs in a document is best interpreted as fitting the purpose of the document, therefore in this document it will interpreted in the same way. In figure 1, the argument from purpose (+AP) is shown as supporting one premise of the +NL argument.

References

[1] N. McCormick and R. Summers, *Interpreting statutes: a comparative study*, Dartmouth Aldershot, 1991.
[2] G. Tarello, *L'interpretazione della legge*, Giuffrè, Milano, 1980.