ISSA Proceedings 2010 – Implicitness Functions In Family Argumentation

1. Introduction

Argumentation is a mode of discourse in which the involved interlocutors are committed to reasonableness, i.e. they accept the challenge of reciprocally founding their positions on the basis of reasons (Rigotti & Greco Morasso 2009). Even though during everyday lives of families argumentation proves to be a very relevant mode of discourse (Arcidiacono & Bova, in press; Arcidiacono et al., 2009), traditionally other contexts have obtained more attention by argumentation theorists: in particular, law (Feteris, 1999, 2005), politics (Cigada, 2008; Zarefsky, 2009), media (Burger & Guylaine, 2005; Walton, 2007), health care (Rubinelli & Schulz, 2006, Schulz & Rubinelli, 2008), and mediation (Jacobs & Aakhus, 2002; Greco Morasso, in press).

This paper focuses on the less investigated phenomenon of argumentative discussions among family members. More specifically, I address the issue of the implicitness and its functions within argumentative discussions in the family context. Drawing on the Pragma-dialectical approach to argumentation (van Eemeren & Grootendorst, 1984, 2004), the paper describes how the implicitness is a specific argumentative strategy adopted by parents during dinner conversations at home with their children.

In the first part of the paper I will present a synthetic description of the basic properties of family dinner conversations, here considered a specific communicative activity type**[i]**. Subsequently, the current landscape of studies on family argumentation and the pragma-dialectical model of critical discussion will be taken into account in order to provide the conceptual and methodological frame through which two case studies are examined.

2. Family dinner conversations as a communicative activity type
Dinnertime has served as a relevant communicative activity type for the study of family interactions. Its importance as a site of analysis is not surprising since

dinner is one of the activities that brings family members together during the day and serves as an important occasion to constitute and maintain the family roles (Pan et al., 2000). Indeed, family dinner conversations are characterized by a large prevalence of interpersonal relationships and by a relative freedom concerning issues that can be tackled (Pontecorvo & Arcidiacono, 2007).

Several studies have contributed to the understanding of the features that constitute the dinnertime event, the functions of talk that are performed by participants, and the discursive roles that family members take up (Davidson & Snow, 1996; Pontecorvo et al., 2001; Ochs & Shohet, 2006). For instance, Blum-Kulka (1997) identified three contextual frames based on clusters of themes in family dinner conversations: An instrumental dinner-as-business frame that deals with the preparation and service of food; a family-focused news telling frame in which the family listens to the most recent news of its members; a world-focused frame of non-immediate concerns, which includes topics related to the recent and non-recent past and future, such as talk about travel arrangements and complaints about working conditions. In addition, she identified three primary functions of talk at dinnertime: Instrumental talk dealing with the business of having dinner; sociable talk consisting of talking as an end in itself; and socializing talk consisting of injunctions to behave and speak in appropriate ways. All these aspects constitute a relevant concern to focus on dinnertime conversations in order to re-discover the crucial argumentative activity that is continuously developed within this context.

In the last decade, besides a number of studies which highlight the cognitive and educational advantages of reshaping teaching and learning activities in terms of argumentative interactions (Mercer, 2000; Schwarz et al., 2008; Muller Mirza & Perret-Clermont, 2009), the relevance of the study of argumentative discussions in the family context is gradually emerging as a relevant field of research in social sciences.

The family context is showing itself to be particularly significant in the study of argumentation, as the argumentative attitude learnt in family, above all the capacity to deal with disagreement by means of reasonable verbal interactions, can be considered "the matrix of all other forms of argumentation" (Muller Mirza et. al., 2009, p. 76). Furthermore, despite the focus on narratives as the first genre to appear in communication with young children, caregiver experiences as well as observations of conversations between parents and children suggest that

family conversations can be a significant context for emerging argumentative strategies (Pontecorvo & Fasulo, 1997). For example, a study done by Brumark (2008) revealed the presence of recurrent argumentative features in family conversations, as well as the association between some argumentative structures and children's ages. Other works have shown how families of different cultures can be characterized by different argumentative styles (Arcidiacono & Bova, in press) and how specific linguistic indicators can trigger the beginning of argumentative debates in family (Arcidiacono & Bova, forthcoming). They also demonstrate the relevance of an accurate knowledge of the context in order to evaluate the argumentative dynamics of the family conversations at dinnertime (Arcidiacono et al., 2009).

For the above-mentioned reasons, family conversations are activity types in which parents and children are involved in different argumentative exchanges. By this study, I intend to focus on the implicitness and its functions within argumentative discussions in the family context, showing how it is a specific argumentative strategy adopted by parents during dinner conversations at home with their children. It is important to emphasize that argumentation constitutes an intrinsically context-dependent activity which does not exist unless it is embedded in specific domains of human social life. Argumentation cannot be reduced to a system of formal procedures as it only takes place embodied in actual communicative and non-communicative practices and spheres of interaction (van Eemeren et al., 2009; Rigotti & Rocci, 2006). Indeed, as van Eemeren & Grootendorst (2004) suggest, knowledge of the context is relevant in the reconstruction; and, more specifically, the so-called "third-order" conditions (ibid: 36-37), referring to the "'external' circumstances in which the argumentation takes place must be taken into account when evaluating the correspondence of argumentative reality to the model of a critical discussion. Thus, in analyzing family conversations, the knowledge of the context has to be integrated into the argumentative structure itself in order to properly understand the argumentative moves adopted by family members. Accordingly, the apparently irregular, illogical and incoherent structures emerging in these natural discourse situations (Brumark, 2006a) require a "normative" model of analysis as well as specific "empathy" towards the subject of the research, as both elements are necessary to properly analyze the argumentative moves which occur in the family context.

3. Data and method

The present study is part of a larger project**[ii]** devoted to the study of argumentation within the family context. The general aim of the research is to verify the impact of argumentative strategies for conflict prevention and resolution within the dynamics of family educational interactions. The data corpus includes video-recordings of thirty dinners held by five Italian families and five Swiss families. All participants are Italian-speaking.

In order to minimize the researchers' interferences, the recordings were performed by families on their own**[iii]**. Researchers met the families in a preliminary phase, to inform participants about the general goals of the research, the procedures, and to get the informed consent. Further, family members were informed that we are interested in "ordinary family interactions" and they were asked to try to behave "as usual" at dinnertime. During the first visit, a researcher was in charge of placing the camera and instructing the parents on the use of the technology (such as the position and the direction of the camera, and other technical aspects). Families were asked to record their interactions when all family members were present. Each family videotaped their dinners four times, over a four-week period. The length of the recordings varies from 20 to 40 minutes. In order to allow the participants to familiarize themselves with the camera, the first recording was not used for the aims of the research. In a first phase, all dinnertime conversations were fully transcribed**[iv]** using the CHILDES system (MacWhinney, 1989), and revised by two researchers until a high level of consent (80%) was reached.

After this phase, the researchers jointly reviewed with family members all the transcriptions at their home. Through this procedure, it has been possible to ask family members to clarify some unclear passages (in the eyes of the researchers), i.e. allusions to events known by family members but unknown to others, low level of recordings, and unclear words and claims.

3.1 The model of Critical Discussion
In order to analyze the argumentative sequences occurring in family, we are referring to the model of Critical Discussion (hereafter CD) developed by van Eemeren and Grootendorst (1984, 2004). This model is a theoretical device developed within the pragma-dialectics to define a procedure for testing standpoints critically in the light of commitments assumed in the empirical reality of argumentative discourses. The model of CD provides a description of what argumentative discourse would be as if it were optimally and solely aimed at

resolving a difference of opinion about the soundness of a standpoint**[v]**. It is relevant to underline that CD constitutes a theoretically based model to solve differences of opinion, which does not refer to any empirical phenomena. Indeed, as suggested by van Eemeren (2010), *"in argumentative reality no tokens of a critical discussion can be found"* (p. 128).

The model of CD consists of four stages that discussants should go through, albeit not necessarily explicitly, in the attempt to solve a disagreement. In the initial *confrontation* stage the protagonist advances his standpoint and meets with the antagonist's doubts, sometimes implicitly assumed. Before the *argumentation* stage, in which arguments are put forth for supporting/destroying the standpoint, parties have to agree on some starting point. This phase (the *opening* stage) is essential to the development of the discussion because only if a certain common ground exists, it is possible for parties to reasonably resolve – in the *concluding* stage – the difference of opinions**[vi]**.

In order to fully understand the logics of the model, it is necessary to refer to what van Eemeren and Houtlosser (2002) have developed as the notion of strategic maneuvering. It allows reconciling *"a long-standing gap between the dialectical and the rhetorical approach to argumentation"* (p. 27), and takes into account the arguers' personal motivations for engaging in a critical discussion. In fact, in empirical reality discussants do not just aim to perform speech acts that will be considered reasonable by their fellow discussants (dialectical aim), but they also direct their contributions towards gaining success, that is to achieve the perlocutionary effect of acceptance (rhetorical aim).

In the present study, the model is assumed as a general framework for the analysis of argumentative strategies in family conversations. It is intended as a grid for the investigation, having both a heuristic and a critical function. In fact, the model can help in identifying argumentative moves as well as in evaluating their contribution to the resolution of the difference of opinion.

3.2 Specific criteria of analysis
According to the model of CD and in order to get an analytic overview of some aspects of discourse that are crucial for the examination and the evaluation of the argumentative sequences occurring in ordinary conversations, the following components must be elicited: The difference of opinion at issue in the confrontation stage; the premises agreed upon in the opening stage that serves as

the point of departure of the discussion; the arguments and criticisms that are – explicitly or implicitly – advanced in the argumentation stage, and the outcome of the discussion that is achieved in the concluding stage. Besides, once the main difference of opinion is identified, its type can also be categorized (van Eemeren & Grotendoorst, 1992). In a *single* dispute, only one proposition is at issue, whereas in a *multiple* dispute, two or more propositions are questioned. In a *nonmixed* dispute only one standpoint with respect to a proposition is questioned, whereas in a *mixed* dispute two opposite standpoints regarding the same proposition are questioned.

4. Dinnertime conversations: A qualitative analysis

In this section I will present a qualitative analysis carried out on transcripts. In this work, I have identified the participants' interventions within the selected sequences and I have examined the relevant (informative) passages by going back to the video data, in order to reach a high level of consent among researchers. Finally, I have built a collection of instances, similar in terms of criteria of the selection, in order to start the detailed analysis of argumentative moves during family interactions. As each family can be considered a "case study", I am not interested here in doing comparisons among families. For this reason, and in order to make clear and easy the presentation of the excerpts, the cases below present situations considered and framed in their contexts of production, accounting for certain types of argumentative moves.

4.1 Analysis

In order to analyze the functions of implicitness within family argumentations, I am presenting two excerpts as representative case studies of argumentative sequences among parents and children, in which parents make use of sentences with a high degree of implicitness, with the goal of verifying to what extent implicitness can be considered a specific argumentative strategy adopted by parents during dinner conversations with their children in order to achieve their goal. I have applied the above-mentioned criteria of analysis in order to highlight the argumentative moves of participants during the selected dinnertime conversations.

The first example concerns a Swiss family (case 1) and the second is related to an Italian family (case 2). In the excerpts, fictitious names replace real names in order to ensure anonymity.

4.2 Case 1: "The noise of crisp bread"

Participants: MOM (mother, age: 35); DAD (father, age: 37); MAR (child 1, Marco, age: 9); FRA (child 2, Francesco, age: 6).

All family members are seated at the table waiting for dinner.

1 *FRA: mom. [=! a low tone of voice]

2 *MOM: eh.

3 *FRA: I want to talk:: [=! a low tone of voice]

→ *FRA: but it is not possible [=! a low tone of voice]

→ *FRA: because <my voice is bad> [=! a low tone of voice]

4 *MOM: absolutel not

→ MOM: no::.

5 *FRA: please:: mom:

6 *MOM: why?

7 *FRA: [=! nods]

8 *MOM: I do not think so.

→ *MOM: it's a beautiful voice like a man.

→ *MOM: big, beautiful::.

9 *FRA: no.

%pau: common 2.5

10 *MOM: tonight: if we hear the sound of crisp bread ((the noise when crisp bread is being chewed)) [=! smiling]

11 *FRA: well bu [:], but not::: to this point.

%pau: common 4.0

The sequence starts with the intervention of the child (turn 1, "*mom*") that selects the addressee (the mother), with a low tone of voice as sign of hesitation. After a sign of attention by the mother (turn 2, "eh"), Francesco makes explicit his request "turn 3, ("*I want to talk*") and the problem that is at stake. When he explains the reason behind his opinion, the mother expresses her disagreement and tries to moderate her intervention through repetition of the genitive mark and the prolonging of the sound (turn 4, "*absolutely not, no::*"). At this point, the discussion is at the phase of the confrontation stage. In fact, it becomes clear that there is a child's standpoint (*my voice is bad*) that meets the mother's contradiction. In particular, in turn 5 Francesco does not provide further arguments to defend his position. In fact, for him, it is so evident that his voice is bad and he tries to convince the mother to align to this position through a recontextualization (Ochs, 1992) of the claim ("*please:: mom:*"). The prolonging of

the sound is thus a way to recall the mother's attention to the topic of discussion (and the different positions about the topic). In turn 6 the mother asks the child the reason behind such an idea ("*why?*"), expressing her need for explanation and clarification. From an argumentative point of view, the sequence turns to a very interesting point. In fact, Francesco does not provide further arguments to defend his position, but he answers with a non-verbal act which aimed at confirming his position (*he nods as to say that it is self-evident*). Despite the mother's request, it is clear that the child evades the burden of proof. At this point the mother states that she completely disagrees with her child (turn 8, "*I do not think so*"), and by assuming the burden of proof she now accepts to be the protagonist of the discussion. Indeed, she provides arguments in order to defend her standpoint (*your voice is not bad*), telling her child that his voice is beautiful as that of a grown-up man.

At this point, the mother uses an ironic expression, an argument with a high degree of implicitness (turn 10, "*tonight if we hear the sound of crisp bread*"). Indeed, she tells the child that if that evening, strange noises were heard, such as that of crisp bread being chewed, it would be her child's voice. It is interesting to notice that the mother uses the first person plural ("*we hear the sound*") in order to signal a position that puts the child *versus* the other family members. The presumed alliance among family members reinforces the idea that the claim of Francesco is not supported by the other participants. The use of epistemic and affective stances (turn 8, "*a beautiful voice…big, beautiful*") and the irony (turn 10) emphasize the value of the indexical properties of speech through which particular stances and acts constitute a context.

In pragma-dialectical terms, from turn 5 to turn 10, the mother and the child go through an argumentation stage. In turn 11 Francesco maintains his standpoint but he decreases its strength in a way ("*well but not to this point*"). Indeed, we could paraphrase Francesco's answer as follows: *Yes, I have a bad voice, but not so much! Not to that point, not as strange as the noise of crisp bread being chewed!* The child's intervention in turn 11 is an opportunity to re-open the conversation about the voice, in particular if we consider the beginning of the claim ("*well*") as a proper key site (Vicher & Sankoff, 1989) to potentially continue the argumentative activity. However, the common pause of 4 seconds closes the sequence and marks the concluding stage of the interactions.

In argumentative terms, we could reconstruct the difference of opinion between

the child and his mother as follows:

Issue: *How is Francesco's voice?*

Protagonist: both mother and child

Antagonist: both mother and child

Type of difference of opinion: single-mixed

Mother's Standpoint: (1.) *Francesco's voice is beautiful*

Mother's Argument: (1.1) *It is big, like a grown-up man*

Child's Standpoint: (1.) *My voice is bad*

Child's Argument: (1.1.) (non-verbal act: *he nods as to say that it is self-evident*)

4.3 Case 2: "Mom needs the lemons"

Participants: MOM (mother, age: 32); DAD (father, age: 34); GIO (child1, Giovanni, age: 10); LEO (child2, Leonardo, age: 8); VAL (child3, Valentina, age: 5).

All the family members are eating, seated at the table.

1 *LEO: Mom:: look!

→ *LEO: look what I'm doing with the lemon.

→ *LEO: I'm rubbing it out.

→ *LEO: I'm rubbing it out!

→ *LEO: I'm rubbing out this color.

%sit: MOM takes some lemons and stoops down in front of LEO so that her face is level with his.

%sit: MOM places some lemons on the table.

2 *LEO: give them to me.

3 *MOM: eh?

4 *LEO: can I have this lemon?

5 *MOM: no:: no:: no:: no::

6 *LEO: why not?

7 *MOM: why not?: because, Leonardo, mom needs the lemons

8 *LEO: why mom?

9 *MOM: because, Leonardo, your dad wants to eat a good salad today

10 *LEO: ah:: ok mom

During dinner, there is a difference of opinion between Leonardo and his mother. Leonardo, in fact, wants to have the lemons, that are placed on the table, to play with (turn 2), but the mother says that he cannot have them (turn 5).

5 *MOM: no:: no:: no:: no::

The mother's answer is clear and explicit: she does not want to give the lemons to her child. The discussion is at the phase of the confrontation stage. In fact, it becomes clear that there is a child's standpoint (*I want the lemons*) that meets the mother's contradiction.

At this point Leonardo (turn 6) asks his mother why he cannot have the lemons. The mother answers (turn 7) that she needs the lemons. But as we can note from the Leonardo's answer in turn 8, this argument is not sufficient to convince him to change his opinion. In fact, he continues to ask his mother:

6 *LEO: why not?
7 *MOM: why not?: because, Leonardo, mom needs the lemons
8 *LEO: why mom?

At this point, the mother uses an expression with a high degree of implicitness:

9 *MOM: because, Leonardo, your dad wants to eat a good salad today

Indeed, she tells the child that his dad wants to eat a good salad, and that in order to prepare a good salad she needs the lemons. In pragma-dialectical terms, from turn 6 to turn 9, the mother and the child go through an argumentation stage. In turn 10 Leonardo accepts the argument put forward by the mother and, accordingly, marks the concluding stage of this interaction.

In argumentative terms, we could reconstruct the difference of opinion between the child and his mother as follows:
Issue: *Can Leonardo have the lemons?*
Protagonist: both mother and child
Antagonist: both mother and child
Type of difference of opinion: single-mixed
Mother's Standpoint: (1.) *You can't have the lemons*
Mother's Argument: (1.1) *mom needs the lemons*
Mother's Argument (1.2) *dad wants to eat a good salad today*
Child's Standpoint: (1.) *I want the lemons*

5. Discussion
In both sequences parents make use of the implicitness during conversations at home with their children in order to achieve their goal. In the first excerpt, the

mother puts forward an argument with implicit meaning in order to persuade her child to retract his standpoint. In turn 10, by saying:

10   *MOM: tonight [:] if we hear the sound of "bread schioccarello" ((the noise when crisp bread being chewed)) [=! smiling] [=! ironically]

she is telling the child that if that evening all family members ('*we hear*') heard strange noises, such as that of crisp bread being chewed, it would be the child's voice. In my opinion, the child's answer makes it clear that he understood the implicit meaning of the mother's argument. Indeed, Francesco maintains his standpoint, but in a certain way, he decrease its strength.

11 *FR1: well bu [:] but not:: to this point.

We can paraphrase Francesco's answer as follow: "*Yes, I have a bad voice, but not so much! Not to that point, not as strange as the noise of crisp bread being chewed!*".

According to leading scholars, commenting ironically on the attitudes or habits of children, appears to be a socializing function adopted by parents in the context of family discourse (Rundquist 1992; Brumark 2006b). In the first excerpt, commenting ironically Francesco's standpoint by means of an argument with a high degree of implicitness, could be also interpreted as the specific form of strategic maneuvering adopted by the mother with her child in order achieve her goal. Furthermore, it is important to stress that a necessary condition for the effectiveness of this form of strategic maneuvering is that the implicit meaning is clear and shared by both arguers (i.e. Francesco understands the implicit meaning of the mother's utterance).

In the first case, we saw how the mother can use an argument with implicit meaning in order to persuade her child to retract his standpoint. On the other hand, in the second excerpt, the mother tries to convince her child to accept her standpoint. Indeed, in turn 9 she says:

9 *MOM: because, Leonardo, your dad wants to eat a good salad today

In this case it is clear and explicit that the mother refers to father's anger and authority, and she does so implicitly. Besides, by anticipating the possible consequences of his behavior, the mother is implicitly telling the child that the father might be displeased by the person who was the cause of him not having a good salad. Now, the mother's behavior could be interpreted as the specific form of strategic maneuvering adopted with her child in order achieve her goal.

Furthermore, as suggested by Caffi (2007), using an argument with a high degree of implicitness can "mitigate" the direction of an order. Accordingly, the order is presented in a less direct way, we could say "more gentle", and so the child perceives it not as an imposition. For instance, saying that the child cannot have the lemons because dad wants to eat a good salad, can appear in the child's eyes as a desire that has to be carried out, and not an order without any justification.

6. Conclusion

In this paper I have tried to show how implicitness can be considered a specific argumentative strategy adopted by parents during dinner conversations with their children in order to achieve their goals. At this point it seems appropriate to take stock of the acquisitions of the ongoing research presented here, listing also the approximately drawn solutions that need to be specified.

Firstly, implicitness appears to be a specific argumentative strategy used by parents in family conversations with their children. Indeed, implicitness in the cases analyzed has two specific functions: In the first case, implicitness is a specific form of strategic maneuvering adopted by the mother to persuade her child to retract or reduce the strength of his standpoint. In the second case, anticipating the possible consequences of his behavior, by means of an argument with a high degree of implicitness, is another form of strategic maneuvering adopted by the mother in order to persuade her child to accept her standpoint.

Secondly, considering the two cases analyzed, we have seen that in order to be an effective argumentative strategy, implicitness has to be clear and understood by both parties. Lastly, parents seem to make use of the implicitness to put forward their arguments in a less directive form. In other words, by means of implicitness parents mitigate the direction of an order.

Considering the two cases as part of a larger research project, some questions about the argumentative moves of family members at dinnertime still remain unanswered. In particular, to provide further analyses of the collected data, we need to understand to what extent family argumentation corresponds to a reasonable resolution of the difference of opinion, to highlight the specific nature of argumentative strategies used by family members and to construct a typology of the several functions of the implicitness in the argumentative exchanges between family members, defining whether it is possible to consider young children as reasonable arguers, by taking into consideration their communicative

and cognitive skills.

Appendix: *Transcription conventions*
. falling intonation
? rising intonation
! exclaiming intonation
, continuing intonation
: prolonging of sounds
[simultaneous or overlapping speech
(.) pause (2/10 second or less)
(   ) non-transcribing segment of talk
(( )) segments added by the transcribers in order to clarify some elements of the
discourse

NOTES
[i] The notion of activity type has been developed by Levinson (1979), in order to
refer to a fuzzy category whose focal-members are goal-defined, socially
constituted with constraint on participants, settings and other kinds of allowable
contributions. According to van Eemeren (2010), communicative activity types are
conventionalized practices whose conventionalization serves, through the
implementation of certain "genres" of communicative activity, the institutional
needs prevailing in a certain domain of a communicative activity. Within this
framework, family dinner is a specific communicative activity type within the
domain of communicative activity named interpersonal communication. In their
model of communication context, Rigotti and Rocci (2006) characterize the
activity type as the institutional dimension of any communicative interaction –
interaction schemes – embodied within an interaction field.
[ii] I am referring to the Research Module "Argumentation as a reasonable
alternative to conflict in family context" (project n. PDFMP1-123093/1) founded
by Swiss National Science Foundation. It is part of the ProDoc project "Argupolis:
Argumentation Practices in Context", jointly designed and developed by scholars
of the Universities of Lugano, Neuchâtel, Lausanne (Switzerland) and Amsterdam
(The Netherlands).
[iii] From a deontological point of view, recordings made without the speakers'
consent are unacceptable. It is hard to assess to what extent informants are
inhibited by the presence of the camera. However, I tried to use a data gathering
procedure that minimizes this factor as much as possible. For a more detailed

discussion, cf. Arcidiacono & Pontecorvo (2004)..

[iv] For the transcription symbols, see the Appendix.

[v] Standpoint is the analytical term used to indicate the position taken by a party in a discussion on an issue. As Rigotti and Greco Morasso (2009) put it: "*a standpoint is a statement (simple or complex) for whose acceptance by the addressee the arguer intends to argue*" (p. 44).

[vi] I agree with Vuchinich (1990) who points out that real-life argumentative discourse does not always lead to one "winner" and one "loser". Indeed, frequently the parties do not automatically agree on the interpretation of outcomes. In this perspective, the normative model of critical discussion has to be systematically brought together with careful empirical description.

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ISSA Proceedings 2010 – Stylistic Devices And Argumentative Strategies In Public Discourse

As the famous discourse analyst Norman Fairclough states, *"it is time social theorists and researchers delivered on their promissory notes about the importance of language and discourse in contemporary social life"* (Fairclough 2003, p.204).

The *aim* of the paper is to analyse the use of the major stylistic devices and argumentative strategies in public discourse, in particular, to reveal the frequency of their use in the given genre of speech. The *research questions* are: a) whether the use of stylistic devices and argumentative strategies is determined by the subject of the speech, b) whether it is determined by gender differences, c)

whether there are typical "male" and "female" devices and strategies. As the *material for investigation* was taken "Contemporary American Speeches" (Johannesen 2000). Following I. Galperin's idea that "the necessary data can be obtained by means of an objective statistical count based on a large number of texts" (Galperin 1991, p.332), we have used the *methods* of statistical and corpus-based analyses, as well as the *method* of comparative analysis.

First, a general statistical and comparative analysis has been made. The total number of speeches is 53, among them 34 speeches belong to males, whereas 19 speeches to females, that is 63 percent of speeches belongs to males vs 37 percent of female speeches. According to the subject of speech, the distribution of the figures is as follows:

concerns of minorities: 9/7m, 2f **[i]**

military and foreign policy: 8/7m, 1 f

technology and the environment : 8/6m, 2f

economic and social issues: 7/6m, 1f

the political process: 7/4m, 3f

contemporary morals and value: 7/3m, 4f

concerns of women: 7/1m, 6f.

As can be easily seen, in the majority of cases (with the exception of the two last topics – morals and value and women's concern) within one and the same topic male speeches prevail in number.

Below will be presented the results of the statistical and comparative analysis of the use of stylistic devices and argumentative strategies based on the whole corpus of speeches:

1. Rhetorical question: 137/88m, 49f

a) rhetorical question as interest factor: 87/64m, 23f; b) rhetorical question as reservation or challenge: 21/12m, 9f; c) rhetorical question as transition: 13/8m, 5f; d) rhetorical question as attention material: 8/4m, 4f; e) rhetorical question as a concluding device: 8/8 f, om

Example: 137/81m, 56 f

a) example as specific instance: 93/45m, 48f; b) brief example: 38/32m, 6f; c) extended example: 4/3m, 1f; d) hypothetical example: 2/1m, 1f

      1. *2. Enumeration: 136/91m, 45f*

2. *3. Quotation: 106/66m, 40f*

a) quotation as testimony: 57/39m, 18f; b) quotation as amplification: 21/15m, 6f; c) quotation as a concluding device: 20/9m, 11f; d) quotation as an introductory device: 8/3m, 5f

1. *4. Comparison and/or contrast: 101/61m, 40f*
2. *5. Statistics: 98/72m, 26f*
3. *6. References as devices for focusing attention: 81/54m, 27f*

a) reference to self: 25/14m, 11f; b) reference to the occasion/context: 19/15m, 4f; c) reference to a historical (or past) event: 12/9m, 3f; d) reference to the audience: 11/5m, 6f; e) reference to a recent event: 8/6m, 2f; f) direct reference to the subject: 6/5m, 1f

1. *7. Metaphor: 64/54m, 10f*
2. *8. Credibility building (ethos): 62/44m, 18f*

a) demonstrating personal qualities as credibility building: 28/25m, 3f; b) showing good will as credibility building: 19/12m, 7f; c) indicating qualifications as credibility building: 12/4m, 8f; d) reducing hostility as credibility building: 3/3m, 0f

1. *9. Parallelism: 60/43m, 17f*
2. *10. Antithesis and antithetical phrasing: 57/43m, 14f*
3. *11. Reasoning: 52/41m, 11f*

a) reasoning to consequences: 20/17m, 3f; b) causal reasoning: 13/9m, 4f; c) parallel case reasoning: 8/8m, 0f; d) reasoning from circumstance: 4/4m, 0f; e) reasoning from reciprocity: 3/1m, 2f; f) alternative reasoning: 2/2f, om; g) reasoning from class: 1/1m, 0f; h) sign reasoning: 1/1m, 0f

1. *12. Motivational appeal: 51/40m, 11f*
2. *13. Allusion: 50/35m, 15f*
3. Personal recollection or illustration: 49/22m, 27f
4. *15. Conclusion (devices used in): 42/33m, 9f*

a) appeal: 15/10m, 5f; b) challenge: 8/8m, 0f; c) summary: 6/5m 1f; d) reference to the introduction: 6/4m, 2f; e) statement of personal intention: 4/3m, 1f; f) personal reference: 3/3m, of

1. *16. Humour: 38/20m, 18f*

a)　humour in the text: 26/13m, 13f; b) humour as a device for focusing attention: 12/7m, 5f

1. *17. Refutation: 29/18m, 11f*
2. *18. Repetition: 29/16m, 13f*
3. *19. Definition: 27/14m, 13f*
4. *20. Analogy: 20/16m, 4f*
5. *21. Alliteration: 19/15m, 4f*
6. *22. Transition: 17/16m, 1f*

a)　signal word as transition: 13/12m, 1f; b) linking phrase as transition: 4/4/m, 0f

1. *23. Irony: 17/12m, 5f*
2. *24. Immediacy (Urgency): 12/9m, 3f*
3. *25. Personification: 11/7m, 4f*
4. *26. Climax: 10/6m, 4f*
5. *27. Apologetic strategies: 9/9m, 0f*

a)　bolstering: 5/5m; b) differentiation: 2/2m; c) denial: 1/1m; d) transcendence: 1/1m

1. *28. Illustration as a device for focusing attention: 9/2m, 7f*
2. *29. Labelling: 8/7m, 1f*
3. *30. Imagery: 7/7m, 0f*
4. *31. Parenthetical Statement: 7/5m, 2f*
5. *32. Play on Words: 7/1m, 6f*
6. *33. Simile: 5/4m, 1f*
7. *34. Refrain: 5/1m, 4f*
8. *35. Restatement: 4/3m, 1f*
9. *36. Hyperbole: 3/3m, 0f.*

The total number of all the stylistic devices and argumentative strategies is 1576, among them 1059 are used by males, whereas 517 by females.

For the analysis to be more precise, in the second part of the research equal number of male and female speeches (3 for each sex) has been taken. The speeches are devoted to various topics, each of them "voiced" by one male and

one female. Thus, the speeches by Mario M. Cuomo "Teaching Values in Public Schools" and by Phyllis Schlafly "The Teaching of Values in the Public Schools" are devoted to contemporary morals and values, the speeches by Ronald Reagan "Eulogics for the *Challenger* Astronauts" and by Virginia I. Postrel "The Environmental Movement: A Skeptical View" are devoted to technology and environment, finally, the speeches by D. Stanley Eitzen "Problem Students: The Socio-Cultural Roots" and by Christine D. Keen "Human Resource Management Issues in the '90s" – to economic and social issues. The statistical and comparative analyses have revealed the following:

1. *1. Enumeration: 23/14m, 9f*

2. Quotation: 17/4m, 13f
a) quotation as testimony: 12/2m, 10f; b) quotation as a concluding device: 3/1m, 2f; c) quotation as amplification: 1/1m, 0f; d) quotation as an introductory device: 1/1f, om
3. Rhetorical question: 16/8m, 8f
a) rhetorical question as attention material: 5/4m, 1f; b) rhetorical question as interest factor: 5/3m, 2f; c) rhetorical question as transition 3/1m, 2f; d) rhetorical question as reservation or challenge: 3/3f, om
4. Example: 16/1m, 15f

a) example as specific instance: 15/1m, 14f; b) extended example: 1/1f, om
5. Reasoning: 15/10m, 5f
a) reasoning to consequences: 8/7m, 1f; b) causal reasoning: 4/3m, 1f; c) alternative reasoning: 2/2f, om; d) reasoning from reciprocity: 1/1f, om
6. Statistics: 12/11m, 1f
7. References as devices for focusing attention: 10/6m, 4f

a) reference to the occasion/context: 3/2m, 1f; b) direct reference to the subject: 2/2m, of; c) reference to the audience: 2/1m, 1f; d) reference to self: 2/2f, om; e) reference to a recent event: 1/1m, of

1. *8. Comparison and/or contrast: 9/4m, 5f*

9. Refutation: 7/1m, 6f

1. *10. Credibility building (ethos): 6/5m, 1f*

a)   demonstrating personal qualities as credibility building: 4/3m, 1f; b)

showing good will as credibility building: 1/1m, of; c) indicating qualifications as credibility building: 1/1m, of

1. *11.   Definition: 4/1m, 3f*
2. *12.   Allusion: 3/2m, 1f*
3. *13.   Parallelism: 2/2m, of*
4. *14.   Analogy: 2/2m, of*
5. *15. Metaphor: 2/2m, of*
6. *16.   Conclusion (devices used in): 2/2m, of*

challenge: 2,2m

1. *17.   Climax: 2/1m, 1f*
2. *18.   Irony: 2/1m, 1f*
3. *19.   Personal recollection or illustration: 2/1m, 1f*
4. *20. Summary: 2/1m, 1f*

a) summary in conclusion: 1/1m, of; b) internal summary: 1/1f, om

1. *21.   Humour as a device for focusing attention: 2/2f, om*
2. *22.   Imagery: 1/1m, of*
3. *23.   Antithetical phrasing: 1/1m, of*
4. *24.   Labelling: 1/1m, of*
5. *25.   Motivational appeal: 1/1m, of*
6. *26.   Personification: 1/1m of.*

The total number of all the stylistic devices and rhetorical strategies under consideration is 161, among them 84 are used by males and 77 by females. Thus, as can be easily seen, also in case of equal number of male and female speeches the number of devices and strategies used by men prevails (though insignificantly). Another important conclusion is that males use comparatively larger variety of types and subtypes of stylistic devices and argumentative strategies, which is presented as follows:

males: 25 types / 35 with subtypes

females: 17 types / 28 with subtypes.

At the next stage of our investigation aiming to find out whether the frequency of the use of stylistic devices and argumentative strategies is determined by a topic of speech, taken at the same time the factor of gender differences, 3 "male" and 3

"female" speeches on one and the same topic – the political issues – were analysed. These are the following speeches: "The Watergate Affair" by Richard N. Nixon, "Inaugural Address" by John F. Kennedy, "The Rainbow Coalition" by Jesse Jackson, "The Feminization of Power" by Eleanor Smeal, "Democratic Convention Keynote Address" by Barbara Jordan and "Inaugural Address as Mayor of the District of Columbia" by Sharon Pratt Dixon. The results of the analysis are presented below:

1. *1. Parallelism: 29/18m, 11f*
2. *2. Apologetic Strategies: 24/24m, of*

a)   bolstering: 11/11m; b) transcendence: 8/8m; c) denial: 3/3m; d) differentiation: 2/2m

1. *3. Allusion: 23/10m, 13f*
2. *4. Antithesis and antithetical phrasing: 21/18m, 3f*
3. *5. Statistics: 18/15m, 3f*
4. *6. Enumeration: 18/8m, 10f*
5. *7. Repetition: 17/5m, 12f*

8. Metaphor: 15/12m, 3f

9. Credibility building: 13/9m, 4f

a)   demonstrating personal qualities as credibility building: 10/9m, 1f; b) indicating qualifications as credibility building: 3/3f

1. *10. Motivational appeal: 10/8m, 2f*
2. *11. Reference: 9/6m, 3f*

a)   reference to the occasion/context: 4/3m, 1f; b) reference to self: 2/1m, 1f; c) reference to a historical (or past) event: 2/1m, 1f; d) reference to a recent event: 1/1m, of

1. *12. Example: 9/4m, 5f*

a) example as a specific instance: 7/3m, 4f; b) brief example: 2/1m, 1f

1. *13. Rhetorical question: 8/4m, 4f*

a)   rhetorical question as interest factor: 4/1m, 3f; b) rhetorical question as

transition: 2/2m, of; c) rhetorical question as challenge: 1/1m, of; d) rhetorical question as attention material: 1/1f, om

1. *14. Personal recollection or illustration: 6/5m, 1f*
2. *15. Comparison and/or contrast: 5/3m, 2f*
3. *16. Quotation: 5/2m, 3f*

a)   quotation as amplification: 3/2m, 1f; b) quotation as an introductory device: 1/1f, om; c) quotation as a concluding device: 1/1f, om

1. *17. Alliteration: 4/3m, 1f*
2. *18. Conclusion (devices used in): 4/2m, 2f*

a)   appeal: 2/2m, of; b) reference to the introduction: 1/1f, om; c) statement of personal intention: 1/1f, om

1. *19. Immediacy: 4/1m, 3f*
2. *20. Humour in the text: 3/2m, 1f*
3. *21. Climax: 3/1m, 2f*
4. *22. Personification: 3/1m, 2f*
5. *23. Imagery: 2/2m, of*
6. *24. Play on words: 2/1m, 1f*
7. *25. Irony: 1/1m, of*
8. *26. Labelling: 1/1m, of*
9. *27. Parenthetical statement: 1/1f, om.*

The total number of all the stylistic devices and rhetorical strategies used in the analysed corpus of speeches is 258, among them 166 are used by males, whereas only 92 – by females. Besides, the types and subtypes of the devices and strategies used by men are more diverse compared with those used by women, which is represented as follows:
males: 26 types/ 35 with subtypes
females: 23 types / 31 with subtypes.

The comparative analysis of 6 speeches on different subjects, on the one hand, and of 6 speeches on political issues, on the other hand, shows that the number of strategies and devices used in the latters is significantly larger (258 vs 161), and what's more, this conclusion refers to the usage by both females and males. In other words, political speeches are the most concentrated from the point of view

of the usage of stylistic devices and argumentative strategies, which can be explained by the genre of political speeches itself characterized by utmost persuasiveness and emotional force.

The general statistical and comparative analysis aimed at revealing the frequency of strategies and devices in different types of public speeches shows that among the most frequent ones are enumeration, statistics, example, rhetorical question, quotation, comparison and/or contrast, references, credibility building, metaphor, parallelism, allusion, whereas among the least frequently used ones are hyperbole, restatement, refrain, simile, summary, illustration (as a device for focusing attention), play on words, parenthetical statement,, imagery, labelling, analogy, irony, climax, personification.

Let us give some illustrations of the most frequent devices:
Enumeration: "By pressing a key, a clerk obtains your profiles that includes voting history, address, family composition, model of car, neighborhood characteristics, ethnic group, and even indication of sexual orientation" (David F. Linowes, "The Information Age: Technology and Computers", p. 44).

Rhetorical question: "That's still the question today when we ask: Are women in journalism, especially now that there are more of us, some of us in positions of leadership, making a difference? Given the impact of the media in shaping our social, political, and economic life, are we seeing changes not only in numbers in the newsrooms, but in the agenda and priorities of society?" (Joan Konner, "Women in the Marketplace: Have Women in Journalism Made a Difference?", p. 96).

Parallelism: "There is a proper season for everything. There is a time to sow and a time to reap. There is a time to complete, and a time to cooperate" (Jesse Jackson, "The Rainbow Coalition", p. 383).

Below are examples of the least frequent devices:
Labelling: "While Reaganomics and Reaganism is talked about often, so often we miss the real meaning. Reaganism is a spirit. Reaganomics represents the real economic facts of life" (Jesse Jackson, "The Rainbow Coalition", p. 388).

Play on Words: "You are ever aware that *your* right to freely practice your faith is only as secure as *other* people's right to believe differently. You are eternally *intolerant of intolerance*" (Faye Wattleton, "Sacred Rights: Preserving

Reproductive Freedom", p. 272).

Personification: "A nation struggling for its soul against a backdrop of smiling cynical corruption and immorality in the highest offices of its government, its industry, its religious institutions" (Eleanor Smeal, "The Feminization of Power", p. 245).

Another conclusion is that gender factor is crucial as regards the use of the devices and strategies, that is compared with women men not only use the latters more actively, they also use more diverse types and subtypes. Besides, the comparative analysis has revealed typical "male" devices (that are not used by females or that are preferred mainly by males) and, on the contrary, typical "female" devices and strategies. To "male" devices and strategies belong reasoning, statistics, devices used in conclusion, credibility building, in particular, demonstrating personal qualities, parallelism, analogy, metaphor, antithetical phrasing, imagery, labelling, motivational appeal, personification, apologetic strategies, irony, reference, alliteration, personal recollection or illustration. To "female" devices and strategies belong definition, example, humour, quotation, refutation, reference to self as a device for focusing attention, repetition, indicating qualifications as credibility building immediacy, parenthetical statement.

It is worth mentioning that the use of specific "male" devices and strategies is common, as a rule, for all types of speeches, in other words, the repertoire of "male" devices with some exceptions is the same irrespective of the subject of public discourse. Whereas typical "female" devices and strategies are "scattered" thematically: some of them are used in political speeches only, while others – in speeches devoted to other subjects.

Let us give some examples of "male" devices:
Statistics: "What you *don't* read about is that $3 billion of those losses – $3 billion of the $3.8 billion – were attributed to a mere 20 institutions – less than one percent of the total number of savings and loans…. What you *don't* read about is that 2,774 solvent institutions, holding 90 percent of total industry assets, reported first-quarter profits… and that the percentage of profitable institutions rose to 69 percent from 65 percent, quarter to quarter" (Theo X. Pitt, Jr., "The Truth about Savings and Loan Institutions: State and Federal Bungling", p. 101).

Metaphor: "But there is something that I must say to my people who stand on the warm threshold which leads into the palace of justice. In the process of gaining our rightful place we must not be guilty of wrongful deeds. Let us not seek to satisfy our thirst for freedom by drinking from the cup of bitterness and hatred" (Martin Luther King, Jr, "I Have a Dream", p. 367).

Alliteration: "My constituency is the damned, disinherited, disrespected, and the despised" (Jesse Jackson, "The Rainbow Coalition", p. 383).

Irony: "He cuts energy assistance to the poor, cuts breakfast programs from children, cuts lunch programs from children, cuts job training from children and then says, to an empty table, "let us pray". Apparently he is not familiar with the structure of a prayer. You thank the Lord for the food that you are about to receive, not the food that just left" (Jesse Jackson, "The Rainbow Coalition", p. 387).

Below are typical examples of "female" devices:
Repetition: "Together, we can plant strong and lasting anchors in every neighborhood in this community. Together, we can put back hope in the hearts of our children. Together, we can give the people of this great city the honest deal they deserve and expect" (Sharon Pratt Dixon, "Inaugural Address as Mayor of the District of Columbia", p. 354).
Quotation: "When I first announced that I would run for office, I quoted Ecclesiastes, "there is a time and a season for everything and everyone" (Ibid, p. 351).
Example: "I believe the change is bubbling up from the people, especially women. For example, in California activist women are determined to change the state legislature…" (Eleanor Smeal, "The Feminization of Power", p. 247).
Reference to self as a device for focusing attention: "But there is something different about tonight. There is something special about tonight. What is different? What is special? I, Barbara Jordan, am a keynote speaker" (Barbara Jordan, "Democratic Convention Keynote Address", p. 370).

The research has, thus, revealed 1) that though, as I. Galperin correctly mentions: "It will be no exaggeration to say that almost all typical… stylistic devices can be found in… oratory" (Galperin 1991, p.299), the frequency of their use is very different, 2) that the concentration of devices and strategies is in direct connection with the subject: the political speeches are in this respect the most

concentrated, 3) that gender factor is crucial as regards the use of devices and strategies: males not only use more diverse devices and strategies, but also use them more intensively compared with females, 4) that there are typical "male" and "female" devices and strategies.

To sum up, it will be appropriate to quote the following words by Karlyn Campbell: *"Never has the need to understand the nature of persuasive discourses and to develop techniques and standards by which to analyse and evaluate them been more crucial. …In short, we shall have to become working rhetorical critics"* (Campbell 1972, p.79).

NOTES
[i] M stands for male speeches, f – for female speeches.

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ISSA Proceedings 2010 – Nobel Diplomacy: The Rhetoric Of The Obama Administration

2010 ISSA — INTERNATIONAL SOCIETY FOR THE STUDY OF ARGUMENTATION

1. Introduction
When the Norwegian Nobel Committee awarded US President Barack Obama the Nobel Peace Prize in October 2009, it declared that Obama had *"created a new climate in international politics"* (Norwegian Nobel Committee 2009). In his acceptance speech, Obama said, *"my administration has worked to establish a new era of engagement in which all nations must take*

responsibility for the world we seek" (Obama 2009). This paper analyzes the National Security Strategy (NSS) released by the Obama administration on May 27, 2010, to evaluate the rhetorical constructs, assumptions, and arguments that define this *"new era of engagement."*

Since 1986, every US president has been required to present Congress with an annual strategic plan. The NSS issued by Obama in May 2010 is the first strategy statement prepared for Congress during Obama's presidency. The Obama administration is not unusual in its lax adherence to the law; President George. W. Bush released only two national security strategies (in 2002 and 2006) during his administration. The purpose of the national security strategy is "to set administration priorities inside the government and communicate them to Congress, the American people and the world" (DeYoung 2010). The Obama administration also included an introductory letter authored by the president as part of the NSS.

2. The rhetoric of imperial righteousness

The NSS is a crucial rhetorical text of the Obama administration. In it, the president frames the purposes and strategies of American foreign policy. Therefore, it is important to analyze the rhetoric of the NSS. Because the US president is the most significant rhetorical figure in American political discourse, the language that the president uses to characterize foreign policy strongly influences the terms of the debate on American foreign policy (Tulis 1987; Dow 1989; Stuckey 1995; Cole 1996; Zarefsky 2004; Edwards 2009). Edwards and Valenzano (2007) contend that a president's foreign policy rhetoric "supplies American foreign policy with a distinct direction in international affairs" (p. 303). As Drinan (1972) notes, "Language is not merely the way we express our foreign policy; language is our foreign policy" (p. 279).

Burnette and Kraemer (2007), in their analysis of the war discourse of George W. Bush, identify the rhetorical construct of "imperial righteousness" that characterizes American foreign policy rhetoric. The rhetoric of imperial righteousness is an extension of the rhetoric of "militant decency" described by Friedenberg (1990). The rhetoric of militant decency, used by early 20th century presidents to justify war, is based on themes of US power, US character, and American assumption of social responsibility (Friedeberg 1990). George W. Bush defined the US role in international conflict as preemptive by adopting a rhetoric

of imperial righteousness (Burnette & Kraemer 2007). The rhetoric of imperial righteousness features four themes: national security, the nature of the enemy, democracy and freedom, and American morality (Burnette & Kraemer 2007). This rhetoric is "imperial" because it advances the interests of what many scholars have characterized as American imperialism. Bacevich noted, "Those who chart America's course do so with a clearly defined purpose in mind. That purpose is to preserve and, where feasible and conducive to US interests, to expand an American imperium" (2002, p. 3). This rhetoric also expresses an assumption of American righteousness that is based on several premises. These include the assumptions that the US is motivated by good will, that the US is reluctant to become entangled in international affairs, and that the US wields superior military power. A final assumption is that Americans have a unique role "not simply to discern but to direct history" (Bacevich 2002, p. 33).

This paper examines the arguments in the NSS expressing the four themes of imperial righteousness: national security, the nature of the enemy, democracy and freedom, and American morality. We argue that the rhetorical framework of American imperial righteousness is not unique to the Bush administration but is and will continue to be the definitional framework of American foreign policy.

3. National security
The first theme of imperial righteousness, national security, suffuses the NSS. Obama discussed the domestic and international dimensions of national security. Early in the NSS, Obama made the point that national security is based on pragmatism rather than ideology. He stated, "To succeed, we must face the world as it is" (Obama 2010b, p. 1). The report and the president's introductory letter also admonished Americans to take a realistic look at their options and strategies. The emphasis on pragmatism and clarity represent an attempt to shift the definition of national security away from ideological objectives.

The NSS posited that in order to strengthen its national security, the United States must be willing to admit mistakes, vulnerabilities, and imperfections. In reviewing American military capabilities, Obama observed that the US had maintained its military advantage but overall American competitiveness had not kept pace. The act of admitting these shortcomings enables Americans to demonstrate their mettle and work toward a more sound and secure future for themselves and for all citizens of the world. The NSS said, "at each juncture that history has called upon us to rise to the occasion, we have advanced our own

security, while contributing to the cause of human progress" (Obama 2010b, p. 6). While Obama acknowledged American imperfections, his conclusion was that the US has a unique capacity to advance its interests consistent with imperial righteousness.

According to Obama, national security starts with domestic strength. In his letter, Obama noted, "Our strategy starts by recognizing that our strength and influence abroad begins with the steps we take at home" (2010a). These steps include bolstering the US economy, reducing the national deficit, guaranteeing opportunities for education to all American children, developing clean energy, and pursuing scientific advances. In the area of homeland security specifically, the US must also effectively manage emergencies, empower American communities to resist radicalized terrorists, and strengthen aviation security (Obama 2010b, pp. 18-19).

While domestic strength is crucial, US national security also depends on international engagement. The NSS set the tone early when Obama noted, "The lives of our citizens – their safety and prosperity – are more bound than ever to events beyond our borders" (Obama 2010b, p. 7). This message is significant, and large sections of the report are dedicated to this argument. This concentration on international engagement even affects the notion of homeland security. As the report indicated, "We are now moving beyond traditional distinctions between homeland and national security" (Obama 2010b, p. 10). Even issues that are often construed as domestic ones, such as homeland security, necessitate international engagement.

The NSS described several strategies the US should follow to implement appropriate and effective international engagement. The US must defeat al-Qa'ida, respond to networks of violent extremism, seek to secure, reduce, or eliminate nuclear weapons, counter biological threats, address climate change, respond to global disease and epidemics (Obama 2010b, p. 11), and do its part to shore up the global economy (Obama 2010b, p. 4). This list reflects the diffuse and varied nature of international initiatives that the US must monitor in the interest of national security. This monitoring also furthers the cause of imperial righteousness.

In dealing with hostile or uncooperative countries, the US must present them with a clear choice between cooperation with and inclusion in the international

community or exclusion from the community if a nation violates international norms. Obama cited Iran and North Korea as two examples of countries that face international sanctions because of their behavior. Obama warned, "if they ignore their international obligations, we will pursue multiple means to increase their isolation and bring them into compliance with international nonproliferation norms" (Obama 2010b, p. 24). Obama used Iraq as an example of the converse of this strategy: constructive engagement. He argued that the US must end the war in Iraq by enabling the Iraqis to assume full responsibility for their government. According to Obama, this outcome "will allow America to leverage our engagement abroad on behalf of a world in which individuals enjoy more freedom and opportunity, and nations have incentives to act responsibly, while facing consequences when they do not" (Obama 2010b, p. 2). In this way, the strategy expands imperial righteousness: nations who do not toe the American line will be sanctioned, while those who cooperate with the US will receive the support of the US and its international allies.

One of the premises of imperial righteousness is the historical role that the US has assumed on the world stage. The NSS referred to world events throughout history during which the US has asserted its leadership, such as the US response to the attacks of September 11, 2001. According to the NSS, those attacks "put into sharp focus America's position as the sole global superpower" (Obama 2010b, p. 8). The report also used historical examples when it described American responses to the industrial revolution, the global spread of communism, and the aftermath of World War II. In each case Obama argued that the US demonstrated global leadership that contributed to greater American security. He noted, "In the past, the United States has thrived when both our nation and our national security policy have adapted to shape change instead of being shaped by it" (Obama 2010b, p. 9). The rhetoric of imperial righteousness presumes that America has the ability and even the responsibility to influence world events rather than merely react to them.

While the US must demonstrate strength, purpose, and agency in influencing world events, Obama also argued that the burdens of global security cannot fall solely on the United States. He explained three reasons that the US must expect and accept the cooperation of other countries in maintaining the global security that will enhance US national security. First, the US must rely on its allies because otherwise the division of labor is inequitable. Second, as we have seen,

the list of global initiatives that must be implemented and monitored is too long and varied for one country – even a superpower – to manage effectively. The US cannot police the world by itself. And, finally, if the US attempts to do so, it will put its own security at risk. As Obama explained, "our adversaries would like to see America sap its strength by overextending our power" (Obama 2010a). A lack of international engagement and cooperation will therefore threaten American security.

Obama made it clear that while the US will work with other nations to realize greater international security, it will still retain its military strength. As Burnette and Kraemer (2007) noted, "The rhetoric of imperial righteousness validates the American prerogative to utilize military power in the cause of right" (p. 193). Obama argued in the NSS that the US will seek many opportunities for non-military engagements with other international actors and states, but it will not relinquish its military superiority. Obama stated, "Our military must maintain its conventional superiority, and, as long as nuclear weapons exist, our nuclear deterrent capability" (Obama 2010b, p. 14). There must also be a balance between the need to appear strong and the effective use of military might. While American military strength is a cornerstone of US security, the US must not assume that it will automatically be an appropriate response to many of the challenges facing the world. Finally, the US must guard against having its military prowess used to hurt American interests. Nevertheless, the superiority of American military might, a fundamental precept of imperial righteousness, is beyond dispute.

Finally, the report argued that while the US will maintain its military strength, it will not use this strength to force its values on other countries. Obama observed, "In keeping with the focus on the foundation of our strength and influence, we are promoting universal values abroad by living them at home and will not seek to impose those values through force" (Obama 2010b, p. 5). The NSS thus disclaimed an explicit imposition of imperial righteousness, although the US will still seek to export its values worldwide.

4. The nature of the enemy

The second major theme of the rhetoric of imperial righteousness is the nature of the enemy that the US faces. Edelman (1988) argued that enemies in political rhetoric can "give the political spectacle its power to arouse passions, fears, and hope" in audiences (p. 66). Leaders, particularly during wartime, have capitalized

on the rhetorical power of enemies to motivate their citizens. George W. Bush's challenge in creating a rhetorical enemy was that the enemy he defined – terrorism – was an impersonal and multi-faceted phenomenon. Moreover, Bush sought to ensure that the enemy "terrorism" was not conflated with nationalities (such as "Afghans") or religions (such as "Islam"). In this theme Obama departs dramatically from his predecessor. Rather than seeking to personalize an enemy, Obama expands the notion of "enemy" to include impersonal natural and economic forces in addition to groups or individuals. In doing so, Obama dilutes the rhetorical force of the enemy.

Although most rhetors work to personalize an enemy, the NSS enacted the opposite strategy. The report identified both "conventional and asymmetric threats" (Obama 2010b, p. 14) as enemies that the US must face. Particularly when describing the "asymmetric threats," the report constructed an enemy or enemies that are diffuse, systematic, and impersonal. The threats that the US faces include a "far-reaching network of violence and hatred" (Obama 2010a), "violent extremism" (Obama 2010b, p. 3), the spread of nuclear weapons, dangers stemming from our reliance on technology, poverty, inequality, economic insecurity, food insecurity, pandemic disease, oppression, climate change, dependence on fossil fuels, the vulnerability of global financial systems, transnational criminal threats and illicit trafficking networks. From a rhetorical standpoint, it is difficult to arouse fear or passion in response to these impersonal enemies.

While fear appeals are one of the strategies that rhetors often use to generate emotion and response to the rhetorical construction of an enemy, Obama characterized fear in a different way. In an echo of Franklin Roosevelt, fear is another threat that must be resisted. The NSS discussed fear in order to minimize its effects. Noting that one of the goals of terrorist attacks is to create fear, Obama warned that responding with fear could "undercut our leadership and make us less safe" (2010b, p. 21). Rather than channeling fear, Obama sought to minimize it.

The enemies that have the most personal qualities are al-Qa'ida, violent extremists, and certain nation states. While the NSS named concrete, personified enemies, it did not give them qualities such as agency or emotion. Even in this identification of an enemy that most Americans would be familiar with, the language stressed the impersonal, systemic nature of the threat. The report did

not mention specific measures that the US should take to defeat al-Qa'ida. Instead, Obama stated generally that the US would strengthen its own networks, break up terrorist operations as early as possible, and deny terrorists safe havens. The report was very clear in spelling out the importance of due process, accountability, and the prohibition of torture in delivering "swift and sure justice" (Obama 2010b, p. 21). The report also named "violent extremists" both domestic and foreign, as enemies. Again, Obama spent little time on describing the motivations of these extremists or the extent of the danger they pose. The report recommended that, in the case of domestic extremists, Americans could counteract the danger they pose by making families, communities and institutions better informed. The way to meet this enemy is pragmatic and systematic rather than personal. The third enemy that takes a more personal form is states that behave in a way that threatens US national security. Obama noted, "From Latin America to Africa to the Pacific, new and emerging powers hold out opportunities for partnership, even as a handful of states endanger regional and global security by flouting international norms" (Obama 2010b, p. 8). As he did with al-Qa'ida and extremists, Obama dispatched these threatening states quickly and clinically.

5. Democracy and freedom
While the NSS may try to re-shape and re-define strategic initiatives of the US under the Obama Administration one thing remains constant and clear – America will continue to take a strong and vibrant leadership position in advancing freedom and democracy throughout the world. Obama claimed that American leadership has historically succeeded in steering the currents of international cooperation in the direction of liberty and justice. Indeed, he argued that this advocacy of universal rights "is both fundamental to American leadership and a source of our strength in the world" (Obama 2010a). Staunchly supporting democracy abroad has been a continuing theme for American presidents. George W. Bush noted that the future security of America depends on a commitment to "an historic long-term goal – we seek the end of tyranny in our world" (Bush 2006). Obama continued that quest.

Grounded in American leadership the NSS reaffirmed America's commitment to pursue its interests within an international system defined by nations' rights and responsibilities. Obama proposed that America should engage "abroad on behalf of a world in which individuals enjoy more freedom and opportunity, and nations have incentives to act responsibly, while facing consequences when they do not"

(Obama 2010b, p. 2). In creating a cooperative venture with other nations in the advancement of liberty Obama issued a subtle ultimatum to the countries of the world – join with us, or choose a separate path that leads to isolation. This ultimatum is bolstered by Obama's belief that "Nations that respect human rights and democratic values are more successful and stronger partners" (Obama 2010b, p. 5).

America should be a leader in fostering "peaceful democratic movements" and facilitating the "freedom to access information" throughout the world while engaging "nations, institutions, and peoples around the world on the basis of mutual respect" (Obama 2010b, p. 11). In discussing this engagement, the NSS continually employed themes of American leadership and multinational cooperation. Obama believes that the universal aspiration for freedom and dignity must contend with new obstacles and confirms that the United States will take leadership in that pursuit, but America cannot and should not have to do it alone. Therefore, the NSS beckons other nations to follow American leadership in the quest for universal rights. The rhetoric of imperial righteousness extends the idea of empire by creating a community of nations united in the goal of spreading democracy, freedom, and human rights. The US supports countries that support freedom, as defined by America, thus making the world more American.

Obama's effort to secure a peaceful world through leadership and cooperation can best be described as "enlightened self-interest" (Obama 2010b, p. 3). If other nations enable their citizens to live in freedom and prosperity, Americans will benefit. The Obama administration believes the US can achieve this enlightened self-interest by engaging other nations. He argued, "Our diplomacy and development capabilities must… strengthen institutions of democratic governance" and promote a just and sustainable international order (Obama 2010b, p. 11). US engagement will succeed because it "advances mutual interests, protects the rights of all, and holds accountable those who refuse to meet their responsibilities" (Obama 2010b, p. 12). This is a veiled threat of isolation. Nations must either engage and promote freedom or be isolated.

One area where the threat is not so veiled is the Middle East. The Middle East provides a clear example of the dichotomy of freedom and engagement (Iraq) versus the threat of isolation (Iran). The United States has important interests in this region including the rebuilding of a secure, democratic Iraq. Obama pledged that the US wants a "sovereign, stable, and self-reliant" Iraq and that the US "will

keep our commitments to Iraq's democratically elected government" (Obama 2010b, p. 25). Conversely, Obama chastised Iran for failing to live up to its international responsibilities and refusing to engage. He described an Iran that can take its "rightful place in the community of nations" and enjoy political freedom for its people (Obama 2010b, p. 26). If Iran refuses, the NSS threatened even "greater isolation" (Obama 2010b, p. 26).

Democracy, not political viewpoint, becomes the basis for US support. As Obama noted, "America respects the right of all peaceful, law-abiding, and non-violent voices to be heard around the world, even if we disagree with them" (Obama 2010b, p. 38). Obama stated that support for democracy is not about candidates, but about the process and the rightful use of the power that comes from the process. Again, Obama cautioned that legitimate, peaceful governments that govern with respect will gain America's friendship, but governments that use democracy as a means to ruthlessly obtain and wield power will "forfeit the support of the United States" (Obama 2010b, p. 38).

Part of the rationale for the NSS is Obama's conclusion that "democratic development has stalled in recent years" and "authoritarian rulers have undermined the electoral processes" resulting in impeding free assembly and the right to access information (Obama 2010b, p. 35). Obama again invoked the concept of "enlightened self-interest" by arguing that the US supports the expansion of democracy and human rights because those governments' "success abroad fosters an environment that supports America's national interest" (Obama 2010b, p. 37). For Obama, supporting democracy is clearly tied to economic development. As he said, they are "mutually reinforcing" (Obama 2010b, p. 37). A broadened view of democracy that includes the promotion of economic schemes designed to bring about prosperity is a unique concept to Obama's NSS. American leadership engages countries to implement sustainable growth that will in turn help the American economy.

Unlike previous presidents, Obama has a much broader view of democracy and freedom. The idea of democracy still comes with a political and moral imperative to act in the cause of right and to champion fledgling governments, but this is now coupled with an incentive to enhance the economies of these nations so that the American economy can grow as well. And while American rhetoric that challenges non-democratic processes or human rights violations will continue, the United States should not and cannot continue to be the only actor on the stage. It

is expected that other democratic nations shall also take up the gauntlet of democracy promotion. While the wars in Iraq and on terror were the clear kingpins in Bush's security strategy, Obama has a more restrained view that seeks to envision a world of the future beyond the battlefields of war where freedom and democracy, in the American image, reign supreme.

The rhetoric of imperial righteousness seeks to create a world-view that promotes democracy and freedom for America's benefit. When democracy supports economic sustainability, America benefits. When freedom spurs the spread of American values abroad, America benefits. And when the world is made a safer place by becoming more democratic and civil, America benefits. Obama's criterion of "enlightened self-interest" is able to mask the selfish nature of democracy promotion in the service of imperial righteousness. We argue that Obama uses the concepts of democracy and freedom to philosophically advance the American empire and that the rhetoric is righteous in its skillful advocacy of human rights and human values—values that are at the core of what it means to be American.

6. American morality

Burnette and Kraemer (2007) contend that American morality is a key component of the rhetoric of imperial righteousness. They argue, "the rhetoric . . . suggests that we look to what is good and socially responsible as an obligation of empire" (Burnette & Kraemer 2007, p. 197). In the NSS Obama utilized leadership and multinational involvement to make the case for the advancement of American morality. Moreover, American moral leadership will help guarantee global security. American moral leadership is crucial because it is through American leadership that the US can advance its own interests in the 21st century. According to the NSS this work begins at home by recognizing that Americans most effectively promote their moral values by living them at home. Obama noted, "America has always been a beacon to the peoples of the world when we ensure that the light of America's example burns bright" (Obama 2010b, p. 2). Americans promote the values of democracy, human rights, and the rule of law. According to Obama, the American people can set an example of moral leadership because of their dynamism, drive, and diversity. The idea of supporting the development of universal rights around the world is a key factor in the rhetoric of imperial righteousness. However, the American example does not always stand up to scrutiny and Obama wisely admitted, "America's influence comes not from

perfection, but from our striving to overcome imperfection" (Obama 2010b, p. 36). He described Americans' ongoing effort to perfect the union as inspirational. The persuasive nature of American morality allows the US to admit its problems but revel in the ability of the American people to rise above those problems.

Obama, like all US presidents, praised the American servicemen and women who demonstrate "their extraordinary service, making great sacrifices in a time of danger" (Obama 2010b, p. 4). According to Obama, the American military is the embodiment of American morality. Specifically, American soldiers put their lives on the line to preserve the American way of life. Obama recognized that by saying that he sees the qualities of service and sacrifice "particularly in our young men and women in uniform who have served tour after tour of duty to defend our nation in harm's way" (Obama 2010b, p. 52). The power of the American military becomes a clear indication of morality in that the US protects and defends democracy and freedom at home and abroad. Indeed, Obama claimed that America is the "sole global superpower" and with that power comes great responsibility (Obama 2010b, p. 8).

"Enlightened self-interest" is also critical to defining American morality under the Obama version of imperial righteousness. Engagement with other countries bolsters "our commitment to an international order based upon rights and responsibilities" (Obama 2010b, p. 3), according to Obama. But the NSS does not elucidate what rights and responsibilities the American example is supposed to support.

Inherent in any discussion of the rights and responsibilities that shape American morality is the interplay of American values with the broader concepts of democracy and freedom discussed earlier. For example, Obama supported protection of civil liberties and privacy, which is critically linked to democracy and freedom. He also highlighted the rule of law and the US capacity to enforce it, which strengthens American leadership. Finally, Obama said, "the United States has benefitted throughout our history when we have drawn strength from our diversity," demonstrating that "people from different backgrounds can be united through their commitment to shared values" (Obama 2010b, p. 37). These values become the glue that binds the American people together. Obama described this relationship in his address to cadets at West Point, cited in the NSS, when he said, "our values are not simply words written into parchment. They are a creed that calls us together and that has carried us through the

darkest of storms as one nation, as one people" (as cited in Obama 2010b, p. 51).

A final characteristic of American morality is resolve. American self-interest and resolve are strong. The NSS quoted Obama's Inaugrual Address when he said, "We will not apologize for our way of life, nor will we waiver in its defense," adding that "our spirit is stronger and cannot be broken – you cannot outlast us, and we will defeat you" (as cited in Obama 2010b, p. 17). The NSS also praised American resilience as having always been at the heart of American spirit, creativity, and invention. As the world changes, new and different actions need to be utilized to solve complex problems. Obama posited that Americans are up to that challenge. Throughout the NSS, Obama's language portrayed the American character positively. Obama described Americans as, among other things, disciplined, determined, hardened by wars, inspired, dynamic, driven, and diverse. Americans find opportunities, fight injustice, support international efforts, underwrite global security, engage others, and support just peace. Finally, Americans' leadership and ingenuity enable them to adapt to the sweeping changes of globalization.

The discussion of American morality under the Obama administration does not veer far from the vision that previous presidents have articulated. Obama argued that the core of American morality is inherently just. The US leads by example to promote universal rights and freedoms at home and America stands as a rightful steward and guardian of those freedoms on the world stage. Obama said that "no threat is bigger than the American peoples' capacity to meet it, and no opportunity exceeds our reach" (Obama 2010b, p. 52).

7. Conclusion
The rhetoric of imperial righteousness enables Obama to justify actions that may seem incongruous as the US moves from expression to action. America advances itself as the world's only super power, but demands multinational action in combating global issues. America says it is the world leader in promoting human rights, but solicits international assistance in achieving this goal. America wants democracy and freedom abroad, but only insofar as it benefits the US economically or politically. America seeks to constructively engage but reserves the right to intervene militarily in international affairs. America disclaims imperialism but continues to promote American values and goals. America supports the sovereignty of other nations but threatens to isolate nations that do not adopt American values and goals. While the language of imperial

righteousness appears socially responsible, it actually promotes the self-interest of America, euphemistically proclaimed as "enlightened-self interest."

The NSS frequently highlights the concept of leadership. The premise is a simple one: America leads by example by invoking either past or current instances of leadership, and its partners and allies follow the lead. While that argument provides interesting and inspiring rhetoric, the fallacy constructed in the message is apparent. Obama wants to paint a picture of a future world where multiple nations, acting in concert, achieve the political and economic objectives that the US deems appropriate, just, and worthy. That is a lofty goal for any administration to achieve and Obama does not have a record of success to support that rhetorical aspiration.

Analysis of the NSS indicates that employing the rhetoric of imperial righteousness is a necessary tool to articulate American foreign policy. While Bush and Obama are decidedly different in political philosophy, their utilization of the rhetoric of imperial righteousness demonstrates that this rhetoric is fundamental to American foreign policy in the post-9/11 world. The US still advances democracy and freedom, ensures national security, and upholds American morality. The NSS still discusses the enemy, but Obama's description of the nature of the enemy includes other threats to American security, such as economic and political threats. The basic argument is still valid. Foreign policy objectives cannot be advanced without creating an enemy to that objective – whether it is economic, political, or environmental. However, the fear that the enemy creates must be perceived as real and imminent for the strategy to have true rhetorical force.

Finally, we argue that the rhetoric of imperial righteousness adapts to the contemporary global climate. The multiple issues listed as threats to American national security require a paradigm that adapts to international necessity. Imperial righteousness is broad enough to allow inclusion of multiple issues while still being strict in form and function. As the Obama administration works to establish a new era of engagement in which all nations must take responsibility for the world America seeks, we argue that the rhetoric of imperial righteousness continues to define the rhetoric of America's foreign policy.

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ISSA Proceedings 2010 – The Argument From Legislative Silence

1. Inferring the Intention
According to the argument from legislative intention, a judicial decision is justified if it is based on the law-maker's intention. In particular, on the basis of this argument, the interpretation of a statute should express the law that the legislature intended to make. But what if the legislature is silent on a certain matter or case? What can be inferred from the silence of the legislature? Are there any intentions that can be inferred from it? As we will show, the argument from legislative silence is ambiguous and we need to specify the conditions under which its different uses are justified. Before doing this, however, we need to recall some features of the more general argument from legislative intention.

Inferring the legislative intent is considered a reasonable and politically sound

requirement on judicial interpretation and decision-making, especially in the systems governed by the principles of separation of powers and legislative supremacy (Goldsworthy 2005; Naffine, Owens & Williams 2001). Politically speaking, it is required by the democratic principle. More in general, it can be derived from the reasons to comply with legal authorities and from the very idea of legislative power (Raz 1996, p. 258; Marmor 2001, p. 90). However, the argument from legislative intention faces several theoretical and practical problems.

Firstly, the notion of legislative intention gives rise to what we might call the *Ontological Problem*: What is the entity we are talking about? Many legal writers claim that, on the one hand, the intention of the legislature as a collective body does not exist, and that, on the other, the intentions of the individual legislators are practically undiscoverable and, in any case, irrelevant (Radin 1930; Greenawalt 2000).

Secondly, such notion faces an *Epistemic Problem*: How are we to know the legislature's intention once we assume that something of this kind exists? Apart from the cases in which it is clearly expressed in legislative texts and provisions, the legislature's intention is not easily discoverable, in particular when we deal with old statutes and constitutions (Marmor 2005, chaps. 8-9; MacPherson 2010). The so-called *travaux préparatoires* often provide insufficient evidence to this effect, especially when various documents, subjects and institutional bodies are concerned (cf. Pino 2008, pp. 401-403).

Thirdly, if we assume that the intention of the legislature exists and can be discovered, we might face an *Abstraction Problem*: What is the relevant level of abstraction in singling out the legislative intent? Should we seek for the abstract legislative intent or rather for its details? Sometimes this issue is addressed in terms of the distinction between enactment intentions and application intentions (Stoljar 1998, p. 36). In any case, we need criteria guiding us to more or less abstract answers (Moreso 2005, p. 136).

Fourthly, in those systems where legislative decisions are *de facto* in the hands of the executive, we face a *Political Problem* (see Bernatchez 2007 on this problem in the Canadian legal system): What is the relevant intent? The legislature's or the executive's?

Finally, as far as legal argumentation theory is concerned, the so-called *Autonomy Problem* can be raised: Is the argument from intention an autonomous or a transcategorical argument? MacCormick and Summers (1991, p. 522) claim it is transcategorical, because in their view the appeal to legislative intent can range over all possible contents of each of the other kinds of legal argumentation **[i].**

Notwithstanding these problems, the argument from intention is widely used by courts and deserves therefore our understanding and discussion**[ii]**. In this paper, in particular, we will focus on those versions of the argument in which the intentions underlying a legal ruling are inferred from the *silence of the legislature*. These "hypothetical" or "counterfactual" intentions are inferred indeed from the fact that the legislature has *not* explicitly ruled the case at hand, and thus are beyond what has been literally stated by the law. This topic, which is relatively neglected in the scholarly literature, is in our opinion an interesting and challenging feature of this argumentative technique. On the one hand, the appeal to hypothetical or counterfactual intentions is frequent in legal practice and argumentation; on the other hand, such an appeal is hard to justify although it is rhetorically effective.

We hope that throwing some light on the uses of this argument will help us understand what its structure is and what its justification conditions are. The theoretical perspective from which we will try to analyze such uses is an inferentialist one, namely a perspective where the justification conditions of the argument are conceived of in terms of the rules of inference governing an exchange of reasons in the legal domain. These rules, in turn, are expressed in terms of the normative statuses (commitments and entitlements) attributed and assumed by the participants in a legal dispute by means of their linguistic contributions to the discussion.

2. On Silent Legislatures

What can be inferred from the silence of the legislature about a certain case that might *fall under the law*, although it is not explicitly ruled? Compliance with existing legislation? Acquiescence with recent adjudication? Desire to leave the problem fluid? What kind of intention, if any, can be attributed to the silent legislature? And what does the legislature's silence say, if anything, about a case that might constitute an *exception to the law*, although it is not explicitly treated as such? Different answers are plausible (Levi 1948, pp. 538-539). We will try to show that even contradictory rulings can be inferred from the silence of the

legislature, depending on the assumptions that one uses as major premises of the argument.

An important presupposition of the argument is that the legislature can be considered as silent on the basis of the wording of a legal text. So, the argument from silence is in a sense parasitic on the argument from literal meaning: it presupposes that a certain case does or does not *prima facie* fall under a rule according to the literal meaning of the relevant text.

Now consider, first of all, the cases that *prima facie* fall under a rule but might constitute an *exception to it* (according to some argument other than the argument from literal meaning, for instance an argument from purpose). Suppose that the legislature is silent on case C_1: one could infer that C_1 is not a relevant exception, since the legislature would have mentioned it if it had the intention to treat it as such. But one could also draw the opposite conclusion, namely that C_1 is a relevant exception, since the legislature would have treated it as such if it had the opportunity to take it into consideration. The two versions of the argument can be schematized as follows:
(*a*) If the legislature had the intention to treat the case as an exception to the rule, it would have done it; but it did not. Therefore, the case falls under the rule.
(*b*) If the legislature had the opportunity to take the case into consideration, it would have treated it as an exception to the rule. Therefore, the case does not fall under the rule.

Similar considerations can be made about the cases that do not *prima facie* fall under a rule but might *fall under it* (according to some argument other than the argument from literal meaning). Suppose that the legislature is silent on case C_2: on the one hand, one might infer that if the legislature had the intention to treat C_2 as such, it would have mentioned it. On the other, one might claim that if the legislature had the opportunity to take it into consideration, it would have included C_2 within the cases so ruled. The two versions of the argument can be schematized as follows:
(*c*) If the legislature had the intention to rule the case, it would have done it; but it did not. Therefore, the case does not fall under the rule.
(*d*) If the legislature had the opportunity to take the case into consideration, it would have included it within the regulation. Therefore, the case falls under the rule.

In all these situations we deal with unexpressed intentions inferred from the legislature's silence. The difference lays in the fact that the argument is used, in versions (*a*) and (*d*), to include a case within the scope of a rule and, in versions (*b*) and (*c*), to exclude a case from it. The first kind of inferred intentions can be labeled *Inclusive Unexpressed Intentions*: they refer to the cases taken to fall under a rule either because, in version (*a*), the legislature did not treat a certain case as an exception or because, in version (*d*), it would have included it within the regulation if it had the opportunity to do that. Instead, we will call the second kind of inferred intentions *Exclusive Unexpressed Intentions*: they refer to the cases taken *not* to fall under a rule either because, in version (*b*), if the legislature had the opportunity to take a certain case into consideration it would have treated it as an exception or because, in version (*c*), the legislature did not explicitly rule it.

What we have been considering so far shows that Fuller (1969, p. 231) was right in claiming that "deciding what the legislature would have said if it had been able to express its intention more precisely, or if it had not overlooked the interaction of its statute with other laws already on the books, or if it had realized that the supreme court was about to reverse a relevant precedent – these and other like questions can remind us that there is something more to the task of interpreting statutes than simply 'carrying out the intention of the legislature'".

We will try to point out on what inferential conditions such diverse and even opposite uses of the argument from legislative silence are justified in the domain of legal interpretation and argumentation. Even if contradictory rulings can be inferred from the fact that the legislature is silent on a certain case or matter, once a certain premise is included in the argument reconstructing legislative intention the path of justification is bound to a set of pragmatic constraints, which need to be specified and taken into consideration. Here these constraints will be conceived of in terms of *commitments* and *entitlements* to a certain claim (Brandom 1994). The first kind of constraints, or deontic statuses in an argumentative practice, amounts to the situations in which an interpreter is assumed, by the participants in the practice, to have a *duty* that she can be asked to fulfill. The second kind of constraints amounts to the situations in which an interpreter is assumed to be *authorized* to perform a certain claim, on the basis of what the participants have been previously claiming and acknowledging. The analysis of the interplay between pragmatic commitments and entitlements in an

argumentative practice permits to figure out what rules of inference govern the uses of this argument in a given legal context, and thus the conditions under which these uses are sound.

3. Is Exchanging a Firearm for Narcotics "Using a Firearm"?
Let us give an example of the argument we are dealing with. In *Smith v. United States* (508 U.S. 223, 1993) the U.S. Supreme Court had to decide whether exchanging a firearm for narcotics is "using a firearm", since the legislature did not explicitly regulate such a case.

The facts were as follows. After petitioner Smith offered to trade an automatic weapon to an undercover officer for cocaine, he was charged with numerous firearm and drug trafficking offenses. Title 18 U.S.C. 924(c)(1) required the imposition of specified penalties if the defendant, "during and in relation to" a drug trafficking crime, "uses a firearm". In affirming Smith's conviction and sentence, the Court of Appeals held that 924(c)(1)'s plain language imposed no requirement that a firearm be "used" as a weapon, but applied to any use of a gun that facilitates in any manner the commission of a drug offense.

So, the issue was whether "using a firearm" covered *any use* of a firearm in relation to a drug trafficking crime or just the uses of a firearm *as a weapon*. The Supreme Court affirmed the judgment of the Court of Appeals against the narrow interpretation of the statute. To this effect, some crucial passages of the decision refer to unexpressed legislative intentions. Consider the following: "Section 924's language and structure establish that exchanging a firearm for drugs may constitute 'use' within 924(c)(1)'s meaning. Smith's handling of his gun falls squarely within the everyday meaning and dictionary definitions of 'use'. *Had Congress intended 924(c)(1) to require proof that the defendant not only used his firearm but used it in a specific manner – as a weapon – it could have so indicated in the statute*. However, Congress did not" (point (a) of the decision; our emphasis).

This passage contains two arguments: an argument from literal meaning ("the everyday meaning and dictionary definitions of 'use'") and an argument from legislative silence. According to the second, since the legislature was silent on the circumstance of exchanging a firearm for narcotics, the Court argues that such a case does not constitute an exception to the rule, for, had Congress intended to treat it as an exception, "it could have so indicated" (or, better, it would have so

indicated). Congress did not, and, continues the Court, there is no reason to suppose that it had a different intent. "There is no reason why Congress would not have wanted its language to cover this situation, since the introduction of guns into drug transactions dramatically heightens the danger to society, whether the guns are used as a medium of exchange or as protection for the transactions or dealers" (point (b) of the decision).

In the opinion of the Court, written by Justice O'Connor, it is also said the following: "*Had Congress intended the narrow construction petitioner urges, it could have so indicated*. It did not, and we decline to introduce that additional requirement on our own" (part II.A of the opinion; our emphasis). Moreover: "We [...] see no reason why Congress would have intended courts and juries applying 924(c)(1) to draw a fine metaphysical distinction between a gun's role in a drug offense as a weapon and its role as an item of barter; it creates a grave possibility of violence and death in either capacity" (part II.C of the opinion).

Therefore, according to the opinion, exchanging a firearm for narcotics is "using a firearm" within the meaning of the statute. Now the Court used version (*a*) of the argument: Had Congress intended that the statute should be given a narrow meaning, it would have so indicated; but it did not, so the statute should not be given a narrow meaning. However, is this the only conclusion justified by the argument from legislative silence?

The Court could have used other versions of the argument as well. It could have used version (*b*), arguing as follows: If Congress had considered the case of using a firearm as a means of barter, it would have treated it as an exception to Section 924; therefore, the case is not ruled by this Section **[iii]**.

The Court could have also used version (*c*) of the argument, claiming this: Assuming that the case is *not* ruled by Section 924, if Congress had the intention to rule it, it would have done it; but it did not; therefore, the case is not ruled. This was in fact Justice Scalia's argument in his dissenting opinion in *Smith*. He contended that "using a firearm" ordinarily means *using it for its intended purpose*. If we construct the legislative provision according to this, we should conclude that it does not cover all possible uses of a firearm in relation to a drug trafficking crime, but restricts to the uses of it *as a weapon*.

"To use an instrumentality ordinarily means to use it for its intended purpose.

When someone asks, 'Do you use a cane?', he is not inquiring whether you have your grandfather's silver-handled walking stick on display in the hall; he wants to know whether you walk with a cane. Similarly, to speak of 'using a firearm' is to speak of using it for its distinctive purpose, i.e., as a weapon" (from Scalia's dissenting opinion).

Scalia claims that the words "as a weapon" are *implicit* in the statute. From this, we can draw an inference to the effect that the legislature had an *exclusive* unexpressed intention with regard to such uses of a firearm as exchanging it for narcotics. This can be put in counterfactuals terms: Had Congress the intention of including such uses within the meaning of the statute, it would have so stated; but Congress did not. Or, had it intended that the statute should be given a less narrow meaning, it would have so indicated; but it did not. This is version (*c*) of the argument**[iv]**.

Finally, it was also possible to use version (*d*) of our argument, making this claim: Although the case is *not* explicitly ruled by Section 924, if Congress had considered it, it would have ruled it according to Section 924; therefore, the case is ruled by this Section**[v].** At the end of the day, both inclusive and exclusive unexpressed intentions can be inferred from the legislature's silence, as the present example shows.

4. Is the Use of this Argument Arbitrary?

On the basis of the analysis we have been presenting so far, is the use of this argument arbitrary? If we consider the standard approach to the study of legal argumentation, it is. The argument from legislative silence is vague and ambiguous, and simply masks a political choice or preference of the interpreter. But this does not give a perspicuous explanation of the actual uses of the argument. Can we put forward a better explanation of them, showing the constraints put on those who resort to this argumentative technique?

Our aim is to analyze the argument from legislative silence by means of a theoretical framework we have put forward in a number of previous papers (Canale & Tuzet 2007; 2008; 2009; 2010). Our approach might be outlined as follows:
1. the semantic content of a legal text depends on the exchange of reasons among the participants in a legal dispute (judges, lawyers, experts, etc.);
2. this content has an inferential structure (it consists of a set of inferences the

text is involved in);

3. this structure can be analyzed from a pragmatic point of view, on the basis of the discursive *commitments* and *entitlements* that the participants undertake and acquire in a legal dispute.

Let us start then our inferential analysis by considering versions (*a*) and (*c*) of the argument with reference to *Smith*. As we will see, these versions do not present the same argumentative problems that the others do.

Versions (*a*) and (*c*) can be considered as (sets of) speech acts performed by a legal interpreter during a trial. By performing them the interpreter is committed to the following claim: "Congress intended to be silent". Silence is here conceived as an *intentional event*; indeed only if this presupposition is accepted the interpreter is justified in claiming either that the case is not an exception to Section 924, or that it is not actually ruled by this Section.

Now the question is: Under what conditions is the interpreter entitled to this claim? An interpreter typically resorts to three kind of *reasons* in order to get entitled to (*a*) or (*c*) by the other participants in the trial:

(1) reasons from legislative history (the enactment process and all the documents produced in it);

(2) reasons from the assessment of the consequences of statutory construction (if these consequences are taken to be just, fair, right, etc., then the interpreter is entitled to the claim);

(3) reasons from systemic coherence (if the intentional silence of the legislature avoids conflicts between norms, then the interpreter is entitled to the claim).

Notice as an important point that each set of reasons presupposes a *different concept of legislature*. The use of these versions of the argument rests upon an idea of the nature and role of the legislature in general: in (1), it is the historical legislature which originally enacted the statute; in (2), it is the rational legislature (where the relevant concept of rationality is that of instrumental rationality); in (3), finally, it is the idea of a legislature which avoids antinomies among norms.

Thus, being entitled to such a counterfactual claim is not easy. In particular, determining the consequences of statutory construction is a controversial task, which calls for further argumentative resources and cognitive devices. Those who make use of this argument can be requested to give reasons as to the fact that a

certain consequence is taken to be reasonable/unreasonable, just/unjust, fair/unfair, acceptable/absurd. This evaluation requires other kinds of arguments in order to be carried on and justified; typically, it requires an argument from purpose or an argument from principle.

According to the former, the consequences of interpretation are valuable as means to achieve a purpose of the law (*ratio legis*). According to the latter, they are valuable on the basis of their coherence with the relevant principles of the legal system. In this last case, it seems correct to argue that what counts as the intention of the legislature is a "question not about meaning [...] but about constitutional principles" (Honoré 1987, p. 26).

However, those sets of reasons are not mutually exclusive; in principle one can make appeal to all of them, once the differences among them are pointed out and their tensions are addressed. Let us move now to the other uses of the argument.

Versions (*b*) and (*d*) of the argument are more tricky than the previous ones. Indeed by performing these (sets of) speech acts the interpreter is committed to the following claim: "The legislature did not want to be silent: if it had considered the case, it would have ruled it". Silence is here considered as an *unintentional event*. Now, under what conditions is the interpreter entitled to this counterfactual claim? Before addressing this question, let us develop some further considerations on the kind of intentions we are dealing with.

The unexpressed legislative intentions we have been focusing on in this paper are sometimes called "hypothetical intentions". They consist in "what the legislator himself would have thought the statute to mean *if* he had more closely considered such cases as the one being decided" (Ekelöf 1958, p. 91); or, more broadly speaking, what the legislature would have intended on certain conditions different from the actual ones (Marmor 2005, p. 130). Sometimes they are called "counterfactual intentions" and are expressed by *counterfactual conditional statements*. This is a proper naming when the issue is not what the legislature actually intended, but what it would have intended had things been different (Stoljar 2001). Indeed in versions (*b*) and (*d*) of the argument from legislative silence the intentions at stake are counterfactual.

Now, from a logical point of view, counterfactual statements are traditionally puzzling. Do they have truth-values, so that they might be considered true or

false?

According to Quine (1950, p. 14), they do not. Take his famous example of the Bizet-Verdi case, with the following counterfactual statements: (i) "If Bizet and Verdi had been compatriots, Bizet would have been Italian"; (ii) "If Bizet and Verdi had been compatriots, Verdi would have been French". What are their truth-values? It is hard to say, at least for the reason that both (i) and (ii) seem to be true but they contradict each other (if Bizet had been Italian and Verdi had been French, they would not have been compatriots). According to Lewis and Stalnaker, instead, these and similar conditionals can have determinate truth-values within the framework of possible worlds semantics (Stalnaker 1968; Lewis 1973; Stoljar 2001, pp. 457-458). In particular, a counterfactual conditional is true if and only if in the most similar world to the actual in which the antecedent is true, the consequent is also true.

Obviously the similarity between possible worlds is vague and depends on the context of discussion. Lewis claimed of the counterfactuals (iii) "If Caesar were in command in Korea, he would use catapults" and (iv) "If Caesar were in command in Korea, he would use the atom bomb" that one context might resolve the vagueness of the comparative similarity in a such a way that some worlds with a modernized Caesar in common come out closer to our world than any with an unmodernized Caesar, while another context might resolve the vagueness in the opposite direction.

Now, if Lewis was right, what are the relevant contexts to be considered in a legal dispute for resolving**[vi]** or at least reducing the vagueness of the counterfactual claim of versions (*b*) and (*d*) of our argument, so that the interpreter gets entitled to it? First of all, the historical context, that is the time of the enactment of the statute and its social and political characteristics. Second, the socio-political context at present time, which might lead the interpreter to resolve the vagueness in a different way. Third, the context of the legal system, which requires coherence and consistency in statutory construction. As far as unintentional silence is concerned, each of these contexts presupposes a *general conception of legal interpretation and argumentation*. Thus being entitled to such counterfactual claim depends on sharing the same conception of interpretation and argumentation. If this is not the case, the use of the argument from unintentional legislative silence is hardly justified.

However, again, these conceptions are not mutually exclusive; in principle one can make appeal to all of them, once the differences among them are pointed out and their tensions are addressed.

5. Conclusions

From what has been shown, it becomes clear that the argument from legislative silence is not a single autonomous argument, but a way of interpreting a legal provision based on and justified by (a combination of) different arguments. So, its justification conditions depend on the justification conditions of other arguments and assumptions. It is important to understand what version of the argument is at stake in a specific dispute and what other arguments and assumptions can justify it.

This is also helpful to settle some of the problems we pointed out at the beginning presenting the more general argument from legislative intention. Recall the Ontological Problem: What kind of entity is the intention of the legislature? On the basis of our analysis, we could argue that this question does not admit a categorical answer but a functional one: such an entity can be identified looking at the functions it fulfills in legal reasoning, that is, at what it serves to do and not at the ontological properties it is supposed to have.

If one adopts this point of view, it follows that the intention of the legislature is a legal device useful for connecting textual and meta-textual arguments in the legal argumentative practice. To put it as MacCormick and Summers do, it has a transcategorical role. On the basis of its transcategorical function, it permits to use a certain set of arguments (textual, systemic, or purposive) as a means to integrate or dismiss the use of a different set of arguments. In this sense, the legislative intention represents a fundamental connection component of legal argumentation, despite the fact that it is not as such an autonomous argument.

An inferential analysis of legal argumentation throws also some light on the Epistemic Problem affecting the idea of legislative intent. In those cases in which such an intent is not explicitly stated, it can be found first by looking at the textual and meta-textual clues that the legislature has let slip in the legal materials; then one has to formulate a hypothesis as to the content of legislative intentions, to infer the norms which could comply with it, and finally to test these norms by means of other textual, systemic and purposive arguments, which help eliminate the hypotheses which are not supported by these arguments. In this

sense, the knowledge of legislative intent is always revisable in the face of further argumentative evidence.

As to the Abstraction Problem, we could agree with the criterion suggested by Moreso (2005, p. 136): if the text is detailed, an interpretive doubt must be solved at the same detailed level, looking for the precise legislative intent; if the text has an abstract formulation (as many constitutional provisions have), a doubt must be solved in the abstract, leaving room for contextual considerations from time to time.

However, as we saw, things get harder when what is at stake is not an actual but a counterfactual intention. Then the argument from legislative silence seems to create more problems than it solves.

NOTES

[i] This might find a confirmation in the distinction of various kinds of legislative intentions: for instance, intentions manifest in the language of the law itself, intentions concerning the purposes of the rule enacted, intentions concerning the application of the law (Marmor 2005, pp. 127-132).

[ii] However, we don't want to say that this argument is *more* important than others. There is a standard distinction between subjective and objective methods of interpretation: in EU law, for instance, the latter are presently preferred (literal meaning, purposes, principles); but in Italy the law itself (art. 12 of the "Preleggi" to the Civil Code) requires the ascertainment of the law-maker's intention as a canon of interpretation.

[iii] To take another example, consider the following passage from *Riggs v. Palmer* (1889), 115 N.Y. 506, 22 N.E. 188: "It was the intention of the law-makers that the donees in a will should have the property given to them. But it never could have been their intention that a donee who murdered the testator to make the will operative should have any benefit under it. *If such a case had been present to their minds*, and it had been supposed necessary to make some provision of law to meet it, *it cannot be doubted that they would have provided for it*" (our emphasis). A similar argument is used in *Holy Trinity Church v. U.S.* (1892), 143 U.S. 457; on this case see Feteris (2008).

[iv] To take another example, in *McBoyle v. United States* (283 U.S. 25, 1931) the Supreme Court had to decide whether the National Motor Vehicle Theft Act applied to aircrafts (which were not explicitly mentioned in the text). The opinion delivered by Justice Holmes stated the following: "When a rule of conduct is laid

down in words that evoke in the common mind only the picture of vehicles moving on land, the statute should not be extended to aircraft simply because it may seem to us that a similar policy applies, or upon the speculation that *if the legislature had thought of it, very likely broader words would have been used*" (our emphasis).

[v] It has to be noticed, however, that this version of the argument would be in tension with the prohibition of reasoning by analogy in criminal law.

[vi] Note that Stoljar (1998, p. 59) is skeptical about this: "the counterfactuals required to be used in intentionalist interpretation are sensitive to context, and hence are vague or indeterminate. If I am right, we cannot have recourse to intentionalism to solve interpretive problems when counterfactuals are required. We must look to some other theory of interpretation".

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Algorithms And Arguments: The Foundational Role Of The ATAI-Question

1. Introduction

Argumentation theory underwent a significant development in the Fifties and Sixties: its revival is usually connected to Perelman's criticism of formal logic and the development of informal logic. Interestingly enough it was during this period that Artificial Intelligence was developed, which defended the following thesis (from now on referred to as the AI-thesis): human reasoning can be emulated by machines. The paper suggests a reconstruction of the opposition between formal and informal logic as a move against a premise of an argument for the AI-thesis, and suggests making a distinction between a broad and a narrow notion of algorithm that might be used to reformulate the question as a foundational problem for argumentation theory.

The paper starts by the analysis of an argument in favor of the AI-thesis (from now on referred to as the AI-argument), distinguishing three premises that support the conclusion (§ 2). We suggest that the interpretation of informal logic as strictly opposed to formal logic might be interestingly analyzed as a move in a strategy to refute the AI-thesis by attacking a premise of the argument: the possibility of expressing arguments by means of algorithms. We are not thereby suggesting that this move was explicitly made by argumentation theorists; nonetheless this counterfactual reconstruction might shed some light on the reasons that opposed argumentation theorists and AI-scholars. In particular, we suggest that the opposition between a formal and an informal approach need not be interpreted only as a way to deal with the peculiarities of ordinary language (analytic philosophy of language answered a similar need without renouncing formal tools, even if only fragments of the natural languages could be formalized), but might also be considered as a way to distinguish the domain of human argumentative rationality from the domain of mechanical computation.

The mentioned strategy will then be compared with other moves directed at the rebuttal of the conclusion of the argument (§ 3). This will allow to distinguish the

criticism of the possibility of expressing arguments by means of algorithms from the criticism of the interpretation of Leibniz's logical calculus as the structure of human reasoning, and from the criticism of the thesis that all computable functions can be calculated by a Turing-machine. The comparison of different strategies to rebut the conclusion of the argument will show that a certain understanding of the notion of algorithm is essential in all three strategies: algorithms are considered as computable functions.

We will afterwards discuss a broader notion of algorithm that is often referred to in the literature either as a more intuitive and primitive notion or as a notion that needs to be developed in order to ground recent developments in computation theory and AI (§ 4). We will interpret the narrow notion of algorithm (algorithms are computable functions) as a formal definition that applies only in certain cases but that can fruitfully contribute to an understanding of the intuitive notion.

We will suggest a general characterization of the broad notion as an enlargement of the narrow notion of algorithm. The latter is based on the definitions given by Markov and Knuth (§ 5). Common features of the two notions are finiteness, generality, conclusiveness, while some relevant differences concern the formulation of effectiveness, which needs to be loosened, definiteness, and determinism, which need to be abandoned if one wants to include non-deterministic algorithms, or indefinite algorithms that need to be interpreted by the receiver in a given context, or more generally algorithms that cannot be computed by a Turing-machine.

We will then consider a distinction between a broad and a narrow notion of argument (§ 6), suggesting that, if one interprets formal logic as a sub-domain of informal logic rather than as a radically incompatible research area, then the broad notion of argument can be considered as more primitive and the narrow notion can be seen as a restriction that is useful to understand the nature of arguments but that is also insufficient for certain purposes of argument analysis.

Given this interpretation of the relations between formal and informal logic, several similarities between the broad notions of argument and algorithm are considered (§ 7): not only the history of the relations between a broad and a narrow notion is similar in the two cases, but the two broad notions can be similarly described by difference with respect to the two narrow notions: the former are informal rather than formal, pragmatic rather than only syntactic, in need of an interpretation rather than unambiguously determined, non-

deterministic rather than deterministic. The distinction between a broad and a narrow notion of algorithm will also explain why it was so easy for argumentation theorists to refute the idea that arguments could be expressed by algorithms: they were comparing the broad notion of argument with the narrow notion of algorithm. Once the comparison is made between the two broad notions, certain similarities cannot be ignored, and the fruitfulness of the application of AI to argumentation might be investigated anew.

In the last section of the paper (§ 8) we will go back to the argument sketched out in § 2 in order to claim that the distinction between a broad and a narrow notion of argument, and the developments made by logic, computation theory, AI and argumentation theory in recent years make it easy to rebut the conclusion of the argument. But maybe that is only due to the fact that the idea expressed by it needs to be reformulated in the light of those developments: the question suggested by AI does not concern the emulation of the argumentative reasoning of a single human mind, but rather the emulation of the argumentative practices of several interlocutors interacting with each other in a given context. The question would now be whether a multi-agent system can emulate the interactive reasoning of several human participants in a discussion (from now on referred to as the ATAI-question). This paper does not aim to give a definite answer to the problem, but considers it as a leading idea in the application of AI to argumentation theory and as an open question that is not limited to logic or philosophy of mind but that involves the foundations of argumentation theory itself, and especially its conception of argumentative rationality.

2. The AI-argument and its criticism by argumentation theorists
Between the end of the Fifties and the beginning of the Sixties research into formal logic and AI were oriented by the idea that
(1) human reasoning can be considered as a mechanical computation (Leibniz's calculemus).
The majority of AI scholars also believed in the so-called Church-Turing thesis, which can be roughly formulated as follows:
(2) any computable function can be computed by a Turing-machine.**[i]**
So, if one accepts the further premise that
(3) arguments can be reconstructed as algorithms,
then one can infer by means of (1), (2) and (3) that
(AI-thesis) human argumentative reasoning can be emulated by a machine.

It is well known that a main reason for the revival and development of argumentation theory in the Fifties and Sixties was the reaction to the neopositivist ideas that there could be no rational discussion on judgements of value and that logic could be conceived as a mathematical calculus rather than as a general theory of human reasoning. We would like to suggest that there was a third element of disagreement between argumentation theorists and formal logicians: it concerned the role attributed to algorithms in the representation and understanding of human reasoning.**[ii]**

AI scholars believed that human reasoning was a mechanical computation (1) and thus aimed at restricting the notion of algorithm so as to identify it with a class of computable functions. According to our interpretation the insistence on the opposition between formal and informal arguments could be seen, in the light of recent developments of AI, and independently from the intentions of the argumentation theory scholars that first defended such an opposition, as a move against the AI-argument. Assuming the Church-Turing thesis (2) to be valid, and assuming that arguments can be reduced to algorithms (3), one could derive the conclusion that human reasoning can be emulated by a machine (AI-thesis). But if this is true, there would be no space left for the specific human "rationality" of argumentation. So, while attacking premise (3), one would at the same time rebut the AI-argument, if not attack the AI-thesis altogether. When arguments are defined as classes of sentences of the natural language that could not be adequately translated into any formal language, then they are defined by opposition to algorithms. Besides, it is not uncommon in the argumentation theory tradition to strongly criticize the reduction of arguments to deductive inferential schemes. So, even if we are not suggesting that any argumentation scholar has explicitly advocated this strategy, some of them might agree on the premises of the argument and might be satisfied with its conclusion.

The strategy consisting in the denial of the AI-thesis by refuting premise (3) was useful to distinguish argumentation theory from logic, and thus a condition for the existence of argumentation theory itself, given that if human reasoning does not differ substantially from the reasoning of a machine, there would be no need to distinguish the domain of human rationality from the domain of formal logic (Govier 1987, pp. 204-5).

3. Other strategies to attack the conclusion of the AI-argument
Whether all human reasoning could be emulated by a machine, and whether there

was nothing in the human mind that could exceed the powers of a calculating machine became main philosophical questions in logic and philosophy of mind. Among those who tried to refute the AI-thesis there were not only argumentation theorists, but also philosophers and logicians. The move made by argumentation theorists was not the only possible one. Other possible moves included the attack on premise (2), i.e. on the Church-Turing thesis, or on premise (1), i.e. on the mechanical conception of logical reasoning.

Kurt Gödel for example criticized the Church-Turing thesis in a remark on undecidability results, where he reacted to the following version of the thesis: Turing machines can compute any function "calculable by finite means" (Turing 1937, p. 250). There is a huge body of literature discussing the meaning of Gödel's remark although in this paper we will not go into details. What is relevant here is the generally accepted fact that Gödel intended to suggest counterarguments to the idea that the generalized undecidability results might establish bounds for the powers of human reason (Gödel 1986, p. 370). Furthermore, it is relevant that he considered Turing's argument "which is supposed to show that mental procedures cannot go beyond mechanical procedures", as not yet conclusive, because "what Turing disregards completely is the fact that mind, in its use, is not static, but constantly developing, i.e. that we understand abstract terms more and more precisely as we go on using them, and that more and more abstract terms enter the sphere of our understanding. [...] This process, however, today is far from being sufficiently understood to form a well-defined procedure." (Gödel 1972a, p. 306). Even if we admit premise (1), i.e. that human reasoning is a mechanical procedure, its calculations cannot yet be expressed by well-defined procedures.

Another possible strategy to refute the AI-thesis consisted in the attack on premise (1). A similar move had been done already at the end of the 19th century by J. Venn, who argued that even if human reasoning were based on algorithms, it could not be considered as a mechanical computation: "There is, first, the statement of our data in accurate logical language. [...] Then secondly, we have to throw these statements into a form fit for the engine to work with–in this case the reduction of each proposition to its elementary denials. [...] Thirdly, there is the combination or further treatment of our premises after such reduction. Finally, the results have to be interpreted or read off. This last generally gives rise to much opening for skill and sagacity; [..] I cannot see that any machine can hope to

help us except in the third of these steps; so that it seems very doubtful whether any thing of this sort really deserves the name of a logical engine" (Venn 1881, pp. 120-121).

In his 1972 article on the extension of finitary mathematics Gödel interestingly remarked upon a difference between the definition of algorithm occurring in the formulation of Turing's thesis and the intuitive notion of a well-defined procedure or algorithm: the latter is a primitive notion. Although he considers it as adequately expressed by Turing's notion of a mechanically computable function, Gödel adds that "the phrase 'well-defined mathematical procedure' is to be accepted as having a clear meaning without any further explanation." (Gödel 1972, p. 275).

It is interesting to remark that all three strategies are based on the common implicit premise that the conception of algorithms can be adequately described by the notion of computable functions. As Gödel somehow suggested, the notion of algorithm is nonetheless antecedent to Turing's definition and further developments of AI and computation theory have shown that the former might be broader than the latter. In the next section (§ 4) we will thus consider a different understanding of the notion of algorithm that will require a new evaluation of similarities and differences between algorithms and arguments (§ 7). This will also imply that the attack of premise (3) in order to rebut the AI-thesis might not be easily made nowadays.

4. A broad and a narrow notion of algorithm
Recent developments of computation theory and AI suggest that the intuitive notion of algorithm might be broader than the notion of a Turing-machine computable function.
Firstly, there are some procedures that cannot be computed by a Turing-machine. Some of them can nonetheless be computed by other kinds of machines (Gurevich 2000, p. 77 ff.). If an algorithm could be defined as a function that can be computed by a broader class of machines, including the Turing-machine as a particular case, then this notion would be broader than the one given by Turing.

Secondly, there are several notions of a computable function (lambda-computable, general recursive, primitive recursive, partial functions, ...), and there is no definite evidence that the notion of algorithm should be adequately and uniquely expressed by one of them. As Gödel himself noted in the previously mentioned

passages, an intuitive notion of algorithm precedes the notion of a computable function. Blass and Gurevich are even more radical: "it is often assumed that the Church-Turing thesis settled the problem of what an algorithm is. That isn't so. The thesis clarifies the notion of computable function. And there is more, much more to an algorithm than the function it computes. The thesis was a great step toward understanding algorithms, but it did not solve the problem what an algorithm is" (Blass and Gurevich 2003, p. 197).

Thirdly, the definition of algorithm as a computable function was the result of efforts to formulate algorithms that can be computed in a reasonably short time and in a reliable way by machines, but the notion of algorithm historically preceded both the notion of function and the invention of calculating machines. As an example, one could mention the nine chapters on mathematical procedures by Liu Hui written at the beginning of the third century (Chemla 2005, p. 125). Similarly, in the common understanding of algorithms as recipes or procedures to carry out some task (Sipser 2006, p. 142), algorithms are sets of instructions written for human receivers. Unlike Turing-machines, the instructions given to a human receiver need not be completely unambiguous. The context of the algorithm and other pragmatic elements might help the receiver to interpret the instructions of the procedure. So conceived, algorithms might contain procedures that cannot be computed by a Turing-machine.

Finally, the development of multi-agent systems in AI has favoured the investigation of interactive algorithms, that can be implemented on a network of machines: multi-agent systems that can learn from experience and interact in a network. The class of interactive algorithms is so broad as to include randomized algorithms, asynchronous algorithms, and non-deterministic algorithms as well. In other words it includes algorithms that "are not covered by Turing's analysis" (Blass and Gurevich 2003, p. 203).

The analysis of the developments of mathematics, computation theory, and AI shows that a broader notion of algorithm not only preceded the formalized definition given in the 20th century, but has also been the object of research in computation theory. The need for a more precise notion of algorithm induced a narrowing of the notion in order to define it as a Turing-machine computable function. Later on some computation theorists and AI researchers discovered that this definition might be too narrow to be applied to some interesting examples, and started to progressively broaden the notion of algorithm. We suggest that the

narrow notion of algorithm might be conceived as a temporary restriction of a more intuitive and broader notion–a restriction that was particularly useful to understand and formalize certain aspects of the broader notion, but that does not pretend to include all kinds of algorithms.

Rather than broadening the notion of an algorithm by enlarging the class of computable functions or the class of machines to which algorithms correspond – a strategy that has been followed for example by Gurevich – we want to develop here a conceptual analysis of the conditions that the narrow notion usually satisfies and that the broader notion might fail to satisfy. We will claim that a provisionary understanding of the broader notion of algorithm that is at stake in AI and in computation theory could be obtained from the narrow notion if one abandons the conditions of definiteness and determinism, and if one does not formulate effectiveness in a very strict way. If the broader notion of algorithm can be obtained by a modification of the definition of the narrow notion, this does not mean, as we have already suggested in the previous paragraphs, that the narrower notion should be more primitive: on the contrary, the broader notion precedes both historically and conceptually the narrower notion. The latter, though, is easier to formalize, and can thus be used as a starting point for the analysis of the former.

5. A conceptual analysis of the differences
Our suggestion for a characterization of the narrow notion of algorithm is derived, with some modifications and integrations, from the definitions given by Markov and Knuth between the Fifties and the Sixties (Markov 1961 and Knuth 1997). An algorithm is a set of instructions determining a procedure that satisfies the six following conditions: finiteness, generality, conclusiveness, effectiveness, definiteness, and determinism.

Finiteness expresses the fact that the procedure allows, given certain inputs, to reach the goal (decision, computation, problem solving), i.e. provide the desired output in a finite number of steps. Generality guarantees the possibility of starting out with initial data, which may vary within given limits (e.g. certain general classes of inputs are admitted). Conclusiveness expresses the fact that the algorithm is oriented towards some desired result which is indeed obtained in the end if proper initial data are given. Effectiveness requires that the operations to be performed are sufficiently basic that they can in principle be done exactly and in a finite length of time by the executer (e.g. a man using a paper and a

pencil). Definiteness requires that the prescription should be universally comprehensible and precise, leaving no place for arbitrariness. Determinism guarantees that, given a particular input, the procedure will always produce the same output, and will consist in the same sequence of steps.**[iii]**

The mentioned characterization determines a class of definitions of algorithms rather than being itself a definition of algorithm: differences might derive from specific or detailed formulations of each condition. Effectiveness might be for example intended as strongly or weakly polynomial-time complexity; generality might be specified as the requirement that all inputs belong to the class of natural numbers or to the class of real numbers, and so on.

In the light of the brief survey of some occurrences of a broader notion of algorithm given in § 4, we suggest that the broad notion should maintain some features of the narrow notion, allowing other features to be formulated in a more liberal way or abandoned altogether. In particular, the narrow notion of algorithm should be better characterized by finiteness, generality, conclusiveness, and by a 'liberal' formulation of effectiveness. This condition has nonetheless to be at least partially maintained if one wants the algorithm to be concretely computable by some kind of physical machine. The conditions of definiteness and determinism might be abandoned, so as to include non-deterministic algorithms, indefinite algorithms that need some interpretation by the receiver, and algorithms that cannot be computed by a Turing-machine. Abandoning these conditions need not mean of course that all parts of an algorithm would be non-definite or non-deterministic: in order to preserve some kind of effectiveness, considerable portions of the algorithm might have to be definite and deterministic.

6. A narrow and a broad notion of argument
After having introduced a distinction between a narrow and a broad notion of algorithm, we would now like to go back to the definition of argument. This will help a further understanding of premise (3), because in order to discuss if arguments can be expressed as algorithms one should consider which notion of algorithm and which notion of argument is at stake.

In the history of argumentation theory several definitions of an argument have been given. A detailed list of different definitions cannot be presented here, but two main classes of definitions can be distinguished. The first class contains the definitions of what we will call the narrow notion of an argument, including the

Aristotelian scientific syllogisms and formal representations of deductive inferences such as Lorenzen's dialogical moves. Common characteristics of this narrow notion of argument are the formal representation, the central role played by deduction as a core inference, and the context-independent definition of validity. The second class contains several definitions that express a broader notion of argument, including for example the pragmatic conception developed by van Eemeren and Grootendorst (2004), and the informal notion of argumentative schemes developed by Perelman. The definitions that belong to this class are usually informal, context-dependent and based on a diversification of the kinds of relations that can occur between premises and conclusions in order for the argument to be valid: deductive and inductive inferences, but also other schemes, such as analogy or causal relation, are admitted as valid.

The relation between the two classes of definitions can be conceived differently (Johnson & Blair 2002, p. 357 and D'Agostini 2010, p. 35). Some authors consider them as two complementary classes: the informal definition of argument is opposed to the formal notion, as if the two concepts were radically different and applied to different domains (Scriven 1980). Other authors conceive the broad notion as an enlargement of the narrow notion that might be partially or wholly formalized by means of more sophisticated logical tools (non-monotonic logic, dialogue logic, default logic, defeasibility, and so on) (Woods et al. 2002). Following this second interpretation of the relations between the two notions, we have elsewhere argued (Cantù & Testa 2006, pp. 18-21) that the narrow notion might be considered as a temporary restriction of the broader notion that is useful to better understand the notion of inference, rather than as a concept that is radically opposed to it.

In our reading, the opposites informal/formal, syntax/pragmatics, and deductive/non-deductive can be read as relations of subordination rather than as relations of contrariety, and informal logic is considered as an enlargement or liberalization of formal logic. Arguments expressed in the natural language are thus informal not in the sense that they cannot be formal, but rather in the sense that they are "only partially formalizable" by means of the logical tools at our disposal.

The narrow notion is in fact useful to formalize certain arguments that fall under the broader notion, or at least certain parts of them (Woods & Walton 1982), as well as the formal notion of argument can be used to better understand an

argumentation that can never be fully articulated in the natural language, or at least not in the same way.

7. Similarities between arguments and algorithms

Given this interpretation of the relations between formal and informal logic, the history of the relations between the notions of argument is partly similar to the history of the relations between the notions of algorithm. An intuitive broad notion is reduced to a narrow notion in order to be treated formally, but after some time the limitations induced by the narrow notion appear as too restrictive and scholars start considering the possibility of broadening it, even if the broader notion can only be partially formalized or cannot be made as precise as the narrow notion.

The distinction between a narrow and a broad notion that has been presented in the case of algorithms has thus an analogy in the case of arguments. Firstly, the development of argumentation theory, and especially of informal logic as a reaction to the reduction of the notion of argument to logical consequence is similar to the criticism of the reduction of the notion of algorithm to the notion of a computable function. Secondly, several formal definitions of argument were developed in order to make the broader intuitive notion more precise, but after some time they were judged as insufficient to express human reasoning; analogously the notion of a function that is computable by a Turing machine has been recently perceived as too restrictive to express all the possibilities of human computation, although still considered as a good way to make the notion of algorithm precise. Thirdly, as in the case of algorithms, the broad notion precedes the narrow notion both historically and conceptually, even if the latter can be obtained by the definition of the former, if certain conditions are modified or abandoned.

The similarities between algorithms and arguments do not concern only the history of their definitions. If one considers the relation between the two narrow notions of argument and algorithm and the relation between the two broad notions respectively, one might remark certain similarities. The attack made by argumentation theorists on premise (3), i.e. to the claim that arguments can be expressed as algorithms, was based on a comparison of the broader notion of argument with the narrow notion of algorithm. But if one now compares the broad notion of argument with the broad notion of algorithm, some similarities might need further investigation.

Firstly, the broader notion of argument is not incompatible with a representation by means of diagrams, graphs, procedural forms, and other inferential schemes that can be expressed by algorithms. This is proved by the number of articles and results produced in AI by scholars who developed Toulmin's interpretation of an argument as a procedural form.

Secondly, the attention devoted to pragmatics in argumentation theory is now emerging in computation theory too, especially in the development of algorithms that need to be interpreted by multi-agent systems, whose resources and background knowledge depend on the amount of interaction between the system and the environment and between the agents themselves.

Finally, the interest for the interpretation of the assertions of the interlocutor in the argumentative practice might be fruitfully compared to the interpretation of the information received from an agent in a complex system. The non-deterministic and indefinite aspects of the broader notion of algorithm might usefully be applied to the reconstruction of certain aspects of human argumentative practices.

A deeper investigation of these and maybe other similarities between the broad notion of algorithm and the broad notion of argument might shed some light on a strictly foundational question that will be developed in the next paragraph: are there some specific features of human rationality that explain our argumentative practices and that cannot be reproduced by the mechanical computation of a multi-agent system?

8. Conclusion
Argumentation theory was partly developed in the belief that there is much more to an argument than there is to an algorithm, but the broad notion of argument was compared with the narrow notion of algorithm. Along these lines one could develop a strategy to refute the AI-thesis, i.e. the claim that the argumentative reasoning of the human mind could be emulated by the computation of a machine. But if one considers a broader notion of algorithm, the AI-thesis might be raised anew: is there something in the broader notion of argument that cannot be captured by the broader notion of algorithm?

This question might get a different answer based on recent developments in logic (non-monotonic logic, default logic, ...), in AI (multi-agent systems) and in computation theory (non-deterministic indefinite algorithms). If premise (3) of the

argument introduced in § 2 cannot be easily refuted, one might ask oneself if the alternative strategies to refute the conclusion are still viable, after one has abandoned the implicit premise that an algorithm is a Turing-machine computable function.

The claim that the argumentative reasoning of the mind can be emulated by a single machine was mainly a question concerning logic and the philosophy of mind, and not a question concerning argumentation theory, because the reasoning that was at stake there was neither dialectical nor dialogic, but rather a merely monologic calculus. Therefore it is possible to accept premise (3) and still deny the AI-thesis in its original formulation. In the Introduction to *Argumentation in Artificial Intelligence*, J. van Benthem apparently adopts this strategy when he reassures logicians, philosophers and argumentation theorists by saying that no AI theorist believes anymore that machines can emulate humans. Machines are rather useful to improve the understanding of human capacities: "Original visions of AI tended to emphasize hugely uninspiring, if terrifying, goals like machines emulating humans. [...] Understanding argumentation means understanding a crucial feature of ourselves, perhaps using machines to improve our performance, helping us humans be better at what we are" (Rahwan and Simari, 2009, p. viii).

This is an easy move, but maybe not too convincing, for even if no AI scholar would claim anymore that a single machine could emulate the reasoning of a single human mind, she could still defend a variant of the AI-thesis reformulated in the light of recent developments of logic, computation theory, artificial intelligence, and argumentation theory:
(ATAI-thesis) a multi-agent system can emulate the interactive reasoning of several human beings.

Recent developments of the applications of AI to argumentation theory suggest that several inter-subjective aspects of human argumentative interactions can be simulated by complex algorithms functioning on systems of interacting machines. It is no longer a question of how far the activities of the brain can be simulated by some physical device, but rather the question is why the application of AI to argumentation theory is so fruitful. For example, there is research on algorithms that produce new arguments, and successful implementations of argument-based machine learning.

This paper does not aim to give a definite answer to the ATAI-question, but rather to show that the question is still open and cannot be easily liquidated as an obsolete or untenable claim. Once reformulated, the analysis of the ATAI-thesis (i.e. AI-thesis revisited in the light of Argumentation Theory) might have some effects on the foundation of argumentation theory itself, as we will claim in the following, after briefly mentioning what we mean here by foundational questions. According to our understanding, foundational problems in argumentation theory concern the creation of an adequate model that can be used to analyze argumentation practices: according to the reconstruction that we suggested elsewhere (Cantù & Testa 2006), such a foundational role might be played by the notions of dialectics, dialogue, intersubjectivity, pragmatics, but also by some ideal of argumentative rationality. Another relevant foundational issue might concern the bridging of the gap between different traditions (including formal and informal approaches to the reconstruction and evaluation of arguments) in order to provide a general framework for the development of argumentation studies.

Now, the interaction between multi-agent systems is based on communication procedures that have strong similarities with the dialectical and dialogic interactions studied in argumentation theory, inasmuch as it is based on distributive cognition and on pragmatic elements as well as on syntactic and semantic aspects. So, the notions of dialectics, dialogue, intersubjectivity, and pragmatics play a major role also in the applications of artificial intelligence to argumentation theory. The ATAI-question asks if there are grounds for this similarity and implies that, if there are, then one should take the results of artificial intelligence into account when defining such concepts.

Secondly, if mechanical computing can be considered as strictly argumentative, then the relevant features of argumentative rationality might already be captured by the algorithms of a multi-agent system: so, if one wants to claim that human argumentative practices contain some specificity ("the" rationality of argumentation), then one should exhibit some features (other than pragmatics and interaction) that could not be captured by the activity of some multi-agent system, and this, we believe, is a foundational task.

Thirdly, the ATAI-thesis in connection with the distinction we suggested between a broad and a narrow notion of algorithm might suggest a new and fruitful way to bridge the gap between formal and informal approaches to argumentation theories, providing a new framework that could include both without

misrepresenting their differences and peculiarities.

NOTES

i The notion of a Turing-machine was first introduced by Alan Turing in 1937 in order to analyze the notion of computability. It is an ideal state machine made of an infinite one-dimensional tape divided into cells, each one able to contain one symbol, either '0' or '1'. The machine has a read-write head, which scans a single cell on the tape at a time, moving left and right along the tape to scan successive cells. The machine actions are completely determined by the initial state of the machine, the symbols scanned by the head in the cells, and a list of instructions of the kind "if the machine is in the Initial State S_0 and the current cell contains the Symbol y, then move into the Next State S_1 taking Action z".

ii Cf. for example Toulmin 2001, p. 96, where the search for algorithms is criticized as a correlate of the search to ground objectivity in a unique methodological standpoint: "These arguments may leave mathematically-minded readers with a sense of loss. The dream of formal "algorithms" for guiding scientific procedures has a charm that will not quickly dissipate. For those who value mathematical exactitude above all other kinds of precision as the model for scientific inquiry, the alternative message of "different methods for different topics" will be a disappointment. Yet, over the centuries, we have been obliged to recognize a spectrum of different kinds of methods (in the plural) for sciences ranging from Newton's Planetary Theory—strictly factual and value-free, and in a style close to that of Euclid's Geometry—by way of empirical or functional sciences like geology, chemistry, physiology, and organic evolution, to those human sciences in which attempts to maintain value-neutrality finally proved vain."

iii The notion of conclusiveness, taken from Markov 1961, is similar to the notion of determinism, but might be fruitfully distinguished from the latter if one accepts Gurevich's characterization of non-deterministic algorithms as a special class of interactive arguments. "Imagine that you execute a non-deterministic algorithm A. In a given state, you may haperlve several alternatives for your action and you have to choose one of the available alternatives. The program of A tells you to make a choice but gives no instructions how to make the choice. […] Whatever you do, you bring something external to the algorithm. In other words, it is the active environment that makes the choices." (Gurevich 2000, p. 25.) Gurevich's algorithm might be conclusive, because once the choice is made, the desired output might indeed be obtained, but it is non-deterministic, because depending

on the choice there might be more than one sequence of steps leading from the input to the output. Besides, the algorithm might still be definite, at least in the sense that the arbitrariness does not depend on an ambiguous formulation of the algorithm, which allows for different interpretations, but rather on the introduction in the algorithm of something external to it.

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ISSA Proceedings 2010 – Emotional Arguments, Personality Theory, And Conflict Resolution
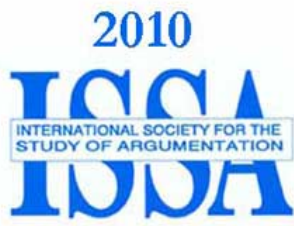
1. Introduction

In The Emotional mode of argumentation: descriptive, people-centered, and process-oriented I compile and discuss different types of emotional arguments that have been introduced in existing literature and demonstrate how they contribute to the overall goals of various argumentative dialogues. Following Hample, a fundamental belief which grounds this work is that, "people cannot reason without emotion and rarely experience emotion without reason. They are partners, not competitors" (2005, p. 127). I do this in an effort to push the argumentation community to acknowledge that emotional arguments can be credible sources of argument, and more importantly that they can help argumentation practitioners better understand, facilitate, or assess emotional arguments. Whether practitioners are analysts performing empirical studies of emotional arguments, professionals who deal with arguments continually as part and parcel to their work, or individuals confronting emotional arguments, that project is aimed chiefly at providing theoretical insights. It also begins to introduce practical tools that can help us with emotional arguments. In this paper, I summarize parts of a chapter on emotion, to demonstrate what is encapsulated by my notion of an emotional argument. This is entirely descriptive, and thus has no elements of normative analysis. Then, I discuss personality theories and connect them with emotional arguments. Finally, I introduce a family mediation case scenario, articulate some of its emotional arguments and discuss how the input of personality theory can help facilitate resolution of those arguments present.

2. Definition of emotional argument

I concentrate on arguments that have some sort of interaction where there is disagreement between parties, with a key element being that arguments require more than one individual, as there needs to be dissent. An emotional argument occurs when the dissent between interlocutors is of an emotional nature. Gilbert states that even though an emotional argument can be paraphrased into a logical argument, "its force and persuasive power come almost entirely from its emotional aspect" (1997, p. 83). Ekman's view on emotions supports this notion of emotional argumentation. He writes that, "we can have emotional reactions to thunder, music, loss of physical support, auto-erotic activity, etc. Yet . . . the primary function of emotion is to mobilize the organism to deal quickly with important interpersonal encounters, prepared to do so by what types of activity

have been adaptive in the past" (Ekman 1999, p. 2). An emotional argument is a common occurrence. As humans, we are susceptible to feeling and intuiting our way, as well as disagreeing and arguing with each other. When a disagreement occurs between parties, emotions can be involved in a number of ways. For an argument to be emotional, it can contribute to the argumentative dialogue in any one of the five ways summarized below.

3. Types of emotional arguments summarized
The list below is a compilation of what other argumentation authors have already put forward with respect to emotion in argument. It is not an exhaustive list, and it should be further developed with the help of empirical research. I consider this a solid starting point for thinking about how emotions play a role in argumentation:

(i) Emotions can be used by an arguer to express an argument (Gilbert 1997).

(ii) Emotions can be used by an arguer as grounds for a claim (Ben-Ze'ev 1995; Gilbert 1997).

(iii) Emotions can make up an arguer's claim (Plantin 1999).

(iv) Emotions of a listener can be elicited in the context of an argument:

– empathic emotions of the audience can be appealed to (Walton 1992);

– emotions of fear in an audience can be evoked (Walton 1992)

In my dissertation I demonstrate ways that these emotional types of argument can be a part of a particular argumentation dialogue. For this, I concentrate on Walton's six dialogues (1998). By connecting the different types of emotional argument with the goals of each of Walton's dialogues, one can better envision some ways that emotions play out in argumentation. Sometimes emotions do not enter into a critical discussion or a negotiation that turns to bargaining for the right "price," but sometimes they are important to the arguers and the context. When this occurs, we need to understand their effects on the argument process, not to consider the emotion as extraneous to the dialogue.

4. Temperament Theory and Application
Personality Dimensions® (henceforth referred to as PD) is a personality assessment instrument that measures temperament. Temperament is defined as "an innate pattern or system of how a human being is organized psychologically that is revealed through characteristic behaviours, talents, values, and psychological needs" (Campbell 2002, p. 1). PD is based on ancient as well as modern research. It characterizes different personalities in a manner that can

assist interlocutors or an impartial third party who is meant to aid interlocutors. Before summarizing some of the theoretical basis for PD, I want to emphasize – more for the skeptic of personality theory than anything – that PD is about preferences. While it categorizes personalities into four main temperaments, it does not pigeonhole an individual. We each have preferences for certain actions, thoughts, relationships, and so on; however, it does not follow that we cannot be successful at things outside of our preferences, or even that we always excel at something within our preference range. An awareness of PD theory and application can be used as a practical tool for negotiating understanding or agreement within argumentative spaces.

Theoretical background of PD

McKim (2003) draws connections and similarities among a number of theories from 400 BC to present day – theories about body fluids, societal roles, sources of happiness, personality types, to temperament types. These comparisons have been loosely articulated as backing for PD. Even though the theorists themselves studied different aspects of four main modes, and the relationships among the theories are not precise, there is substantial enough overlap to suggest PD is supported by research over the centuries (McKim 2003, p. 6). As Maddron writes.

Over the centuries, these four elements of personality have interested people for the same reason that they interest us today. The four temperaments shed light on certain natural differences among people that make sense, differences that help us understand and relate to ourselves and the people around us. (2002, p. 10)

Greek physician Hippocrates (460 – 377 BC) theorized that human temperament was controlled by levels of body fluid (Garrison 1966). For example, an excess of phlegm resulted in a calmer temperament, while an excess of blood was synonymous with a more cheery temperament (Ibid.). In The Republic Plato (428 – 347 BC) discussed societal roles in an ideal society. The social roles he defined are: the rationals, the guardians, the idealists, and the artisans (Plato 1993). Aristotle (384 – 322 BC) looked at human temperament in terms of sources of happiness, which he categorized as: dialectical types, proprietary types, ethical types, and hedonic types (1947). In the 1920s Jung (1875 – 1961) worked on psychological types. His research is the basis of several works on personality assessment that followed, including the well known and comprehensive Myers-Briggs Type Indicator®. Jung introduced the following four types: intellect-directed, body-directed, feeling-directed, and intuition-directed (Jung and Baynes

1921). Each of these authors presents a theory that relates to human temperament. Rather than connect the elements of each theory in any great detail, I refer you to McKim (2003).

Application of PD
Myers and Briggs, Lowry, and McKim each develop application practices stemming from their own research and partly from the theories skimmed above. Myers and Briggs were the first to bring personality types from the theoretical realm to the layperson (McKim 2003, p. 4). While they address sixteen different types, they categorize them into four temperaments: intuitive thinking, sensory judging, intuitive feeling, and sensory perceptive. Stationed in California, Lowry developed the True Colours ® temperament tool, and here in Canada McKim founded PD with the help of others' research. PD breaks down to the following four temperament types: Inquiring Greens – the Theorists, Organized Golds – the Stabilizers, Authentic Blues – the Catalysts, and Resourceful Oranges – the Improvisers. According to PD literature, we each have a preferred temperament style, though we often find ourselves functioning within all the temperament styles. This is an important point as it demonstrates that we each have a unique combination of the four temperaments, and none of us is relegated to a single category – that is, we all demonstrate aspects of all four types as required by our particular circumstances. In fact, "the four Colors, and the temperaments they represent, should be seen as a set of lenses for looking at the world. This is a very old set of lenses that has survived for thousands of years in more than one culture" (Ibid., p. 8).

Berens (2006) describes characteristics of the temperaments visually via temperament rings in Understanding Yourself and Others. At the core of a temperament ring are needs, followed by values, talents, and the outermost ring exemplifies behaviours. Berens writes: "the needs represent the basic psychological needs of the temperament, the driving force. Individuals, unconsciously and consciously seek every avenue to have these needs met" (2006, p. 24). When an individual does not have her needs met, she may be dissatisfied or experience feelings of stress. I focus mainly on the core needs of each temperament.

Conflict management with PD
Conflict, and arguments that arise from it, can oftentimes be a product of personality differences (Neault & Pickerell 2007, p. 11). Knowledge of personality

types and how they orient generally (this is something I'm currently researching and working on aside from this paper), in conflict, and with each other can help solve disagreements or even avoid conflict and arguments altogether. Berens writes, "People with different talents tend to take different approaches to the same situation, frequently resulting in conflict. This conflict can be productive and beneficial to a relationship, a family, or an organization. It can also be destructive" (2006, p. 28). The same goes for argumentation: people will obviously vary among their views on certain issues – this is nothing new in the discussion of arguments, but with different dispositions, or temperaments, they will likely take different approaches in communicating arguments too. This, on the other hand, is newer territory in argumentation, as it implies that there could be various argumentative methods, and thus a single theory of argumentation may not truly capture or understand some argumentative dynamics. When these differences come together in argumentation, the dialogues can be productive and beneficial to the relationships between interlocutors, as it can result in learning about issues, and more importantly about oneself and others with whom she argues. These differences in argumentation can be destructive too though, when interlocutors are at a crossroads, unable to resolve or even communicate effectively with each other because they have different preferences and are unable to coalesce these differences. This includes different views, different notions of a situation in which a view may stem, different feelings towards issues, and different manners in dealing with issues.

Understanding temperament theory, which PD explains and categorizes, offers knowledge about human nature, at the level of the interlocutor as opposed to the argument. This might not directly shed light on the analysis of arguments, for example it may not assist in determining whether premises strongly support their conclusions, however, it can facilitate communication so that arguments can be made in different manners, resulting in them being understandable to more than just the utterer of the argument, or just palatable even, to different temperament types. Divorce mediators or lawyers, teachers dealing with schoolyard disagreements, managers at the workplace, customer service representatives, friends, family members, and neighbours can benefit in argumentative interactions from understanding temperaments. Even if an interlocutor is unaware of another individual's preferences, at the very least knowledge of one's own preferences, and the strengths and weaknesses that accompany them, can facilitate better argumentative communication.

I suggest that PD is a helpful tool for arguers and/or their third party practitioners. PD puts the focus on arguers, validating that they are the makers of arguments, and arguments are simply by-products of their communication, as well as focusing on the audiences. PD recognizes that there is something unique about an interlocutor's communication of and understanding of arguments; for the field this prompts the question: how can we have universal notions of good reasoning when we do not all approach the practice of reasoning in the same manner? The addition of PD as a tool and the corresponding criticism it elicits of the tradition allows for a more inclusive approach to arguments, open-minded enough to accept the ambiguous argumentative map that results.

Some argumentation scholars have posited models or theories of argumentation that inadvertently support the use of PD. Gilbert's multi-modal approach overlaps with the temperaments. For instance, the theorists would be more inclined to argue using the logical mode, while the catalysts prefer to make arguments that stem from how they are feeling about an issue. Willard's theory on argument fields denotes a picture of arguments in which the diversity of arguers actually steers arguments. From this perspective, taking a look at arguers from the stance of PD is plausible, and likely helpful in understanding an argument's social dynamic.

I have already mentioned that PD should not be taken as a rigorous, universal tool that labels arguers, but that the temperaments can function as one of the lenses we have at our disposal to navigate through argumentative discourse. Obviously, it is within the spirit of this approach that other tools can be introduced and used, especially because we may not all connect with PD. I end this section on PD with an extensive quotation from Maddron, who I think captures the essence of PD in a productive manner:

These lenses demonstrate certain natural differences among people. These natural differences can be appreciated and accepted. And as we all know only too well, these differences can also be argued about, rejected, and fought over.

The good news is that when we decide to appreciate and accept these natural differences, much of the trouble seems to go out of life. New understanding and new acceptance of others follow closely on the heels of a new attitude about the self – new pictures and stories. New pathways open up. Strengths are discovered. Limitations are accepted. Cooperation is improved. We move from conflict to an appreciation of our natural differences. (2002, p. 8)

1. Case Scenario

A mother and her son were diverted to mediation after the mother pressed threat of assault charges on her 17 year old son. The two had been having family disagreements over an extended period of time. One particular evening, a disagreement about household chores led to the son becoming quite angry; enraged, he picked up a broom stick and held it. Mom, becoming fearful of her son's capabilities, locked the door and called the police as soon as her son left the house to "cool off."

During mediation Mom's main concerns were her son's education, as his grades were slipping, his lack of interest in piano (he started playing piano before he could read music), and the fact that her son did not always listen to and obey her. The main concerns the son shared were his lack of privacy in their home, and his mother's favoritism of his younger sister, who still played piano.

The threat of assault, the reason the mediation was taking place, was hardly mentioned, nor was it a real concern for any of the parties. The only time either of them addressed the event that led to the son's charge was when the mediators tried to discuss the charge (a main goal of the crown-recommended mediation). The son had no intention of actually touching his mother, and the mother was not in fear of being hurt by her son.

Domestic squabbles were discussed, in an effort to reach a resolution, get the son back into the family home and back to his classes, but when the son felt like his mother just wanted to control him, he said that he would rather go to a court and judge, and risk a possible charge, than work anything out with his mother in mediation. What led to the son's (temporary) departure from the mediation was his mother's implicit threats that he had to promise to behave in certain ways for his mother to consider a resolution.

While the mediation took several meetings and has been significantly shortened from the actual dialogues that occurred, it is hopefully easy to acknowledge the presence of the emotional mode that can take over such an interaction. The mediation fluctuated mainly between persuasive dialogues (parties trying to convince the mediators of their stories) and eristic dialogues (between the parties). Each of the parties present arguments that try to elicit empathy in the mediators. When the mother implicitly threatened her son's freedom from a criminal charge in exchange for promising to attend college and drop his passion

for visual arts, an appeal to fear became present. This almost ended the mediation early, without any settlement. In response, the son wanted to end the mediation prematurely, an emotional reaction/argument, and evoked the same type of fear in the mother. I focus on these ad baculums to make my point in this paper. Neither mother nor son really intended or wanted for their implicit threats to actually occur. That is, mom wanted her son's criminal record to be cleared, so he could start fresh, and eventually gain employment without any hitches related to his criminal past. The son in this case shared with the mediators (only) that he wanted to move back home and finish high school. He was stressed living across town with a family member. He wanted to finish high school and have the option of studying Law & Society as back-up, in case his career as an artist did not prove financially fruitful. Their actual goals were not so conflictual.

The mediators, noting the ad baculums, articulated the core needs of each party. It was obvious that the son needed a sense of freedom from his mother. He felt stifled. This need for freedom to make decisions can be a core need for some. In terms of PD, when this need is threatened, an individual is "stressed" and may respond in a manner that is hasty and/or aggressive. Noting this, the mediators refocused discussion on the son's need for personal space and decision-making – neither of which were directly related to the charge that had to be resolved.

The mother in this case appeared as if she was just trying to gain control of her son. Deeper questions and discussions in caucus, however, revealed that she needed her son on an emotional level. She wanted him to accept her decisions about her personal life (i.e. her current relationship). She also wanted him to stay connected to his sister and herself, which she felt was not present. Her reaction to getting these needs of acceptance and connection fulfilled was to force him to stay at the home and do as she said. Noting this, the mediators also facilitated a discussion that revealed this to the son. I cannot stress that neither party was aware of the other's needs. The ad baculums presented catalysts towards a resolution that seemed impossible at one point. Without recognizing them, the dialogue was falling apart rapidly. Why is this connected to personality theory at all? We do not all respond to the same situation or relationship in the same manner – being able to note and work through core needs allows for a better understanding of each other, and in this case, reframing arguments so that they did not scare and/or threaten the parties. I go further and argue that dismissing ad baculums as bad (or irrational arguments), instead of emotional ones,

dismisses these arguers' means of communicating their dissent.

6. Conclusion

When arguments become primarily emotional, as they were in this case, productive dialogue necessitates acknowledging and working with emotional arguments, if for no other reason than for the parties' satisfaction. I maintain that using PD as a tool for emotional argumentative discourse, particularly argumentative dialogues that need resolutions, should be given consideration, as it can help argument practitioners navigate their paths through contentious emotional territory.

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