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The Analysis of Pragmatic Argumentation in British Lawmaking Debates: The second reading

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ABSTRACT: The paper outlines some institutional characteristics of Second Reading debates on public bills in the British House of Commons that can assist in the analysis of MP's pragmatic argumentation. Special attention is paid to the institutional preconditions for the application of the pragmatic argument scheme. The theoretical starting point is the pragma-dialectical theory of argumentation. Claims are illustrated with examples from the Second Reading debate on the British Terrorism Bill (2005).

KEYWORDS: argumentative activity type, pragmatic argument scheme, pragmatic argumentation, principles of a bill, public bill, Second Reading debates.

1. INTRODUCTION

In the aftermath of the 2005 London bombings Home Secretary Charles Clarke introduced in the House of Commons a bill designed to create a number of new offences and amend previous counterterrorist legislation. The bill provoked considerable controversy. This was particularly true of proposed new offences involving encouraging or "glorifying" terrorism and of the proposal to increase from 14 days to 3 months the maximum period during which terrorist suspects may be detained without charge on judicial authority. After a wide-ranging Second Reading debate in the Commons on October 26, 2005, and significant amendments in the subsequent legislative stages, the Bill received Royal assent on March 30, 2006. Pragmatic argumentation was recurrently used in all the legislative stages of the Terrorism Bill.

The ubiquity of pragmatic argumentation is not unique to the 2005-2006 debates but a hallmark of lawmaking debates in general. Pragmatic argumentation is argumentation for or against a policy or course of action on the basis of the desirability or undesirability of its effects (Perelman & Olbrechts-Tyteca 2000, p. 266; Schellens 1987, p. 40; van Eemeren & Grootendorst 1992, p. 97). Since Classical times, the object of legislative oratory has been conceived as that of scrutinising the favourable or unfavourable effects of a given law on society, and the topics of the "advantageous" and the "disadvantageous" as "special topics" of invention pertaining to this sort of oratory (Aristotle, *Rhet.* 1.4-8; Cic., *De Inv*. 2.52-58). These topics roughly correspond to what

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contemporary theorists call "positive" and "negative" variants of pragmatic argumentation, respectively.

That pragmatic argumentation is such an integral part of lawmaking debates suggests that the systematic analysis and evaluation of the pragmatic arguments used in a given debate is a prerequisite to the appropriate analysis and evaluation of the debate at large. My intention in this paper is to contribute to the study of parliamentary lawmaking debates by proposing instruments to *reconstruct* pragmatic arguments in one of the legislative stages of a public bill in the UK parliament: the Second Reading. These instruments are designed on the basis of normative-theoretical considerations regarding the general, constitutive properties of pragmatic argumentation as defined in pragma-dialectics and on empirical observations concerning the context-specific features that pragmatic argumentation manifests in the 'argumentative activity type.'

The paper is divided in three sections. Section 1 characterises Second Reading debates solely from an institutional and pragmatic perspective. Section 2 organises this information from the point of view of a critical discussion with a view to examine how the argumentative activity type's goals, rules and conventions can shape argumentative discourse. Finally, on the basis of these insights, I propose in section 3 an argumentative structure representing the speech of the Government's principal spokesperson that highlights the function of pragmatic argumentation in the Second Reading. Knowledge of the function of pragmatic argumentation in the Second Reading is central to an adequate reconstruction of pragmatic argumentation. To illustrate my claims I refer to the Second Reading debate on the Terrorism Bill.

2. A PRAGMATIC AND INSTITUTIONAL PERSPECTIVE ON BRITISH SECOND READING DEBATES

The Second Reading is the first stage in which public bills are discussed. To have a proper grasp of Second Reading debates it is thus important to examine first the pragmatic dimension of a bill and to consider the specific role of the Second Reading in the larger context of the lawmaking process.

The Pragmatic dimension of bills[1]

A bill is "a *proposal* to introduce a new law, or amend an existing law, which is presented for debate" (*Glossary: Parliamentary language explained* [italics added]). A bill is thus defined and regulated by the same generic felicity conditions as any other proposal. Still, a legislative proposal has distinctive features. For one thing, it involves a large number of utterances. The first paragraphs of the Terrorism Bill are presented below:

> A
> BILL
> TO
>
> Make provisions for and about offences relating to conduct carried out, or capable of being carried out, for purposes connected with terrorism; to amend enactments relating to terrorism; to amend

[1] The pragmatic characterisation proposed here applies to bills in general. *Public* bills have of course specific characteristics but these relate mainly to the process they follow through parliament and the format of their debates.

the Intelligence Services Act 1994 and the Regulations of Investigatory Powers Act 2000; and for connected purposes.

BE IT ENACTED […] as follows:—

PART 1
OFFENCES

Encouragement etc. of terrorism

1 Encouragement of terrorism
(1) A person commits an offence if --
(a) he publishes a statement or causes another to publish a statement on his behalf; and
(b) at the time he does so –
(i) he knows or believes, or
(ii) he has reasonable grounds for believing,
that members of the public to whom the statement is or is to be published are likely to understand it as a direct or indirect encouragement or other inducement to the commission, preparation, or instigation of acts of terrorism or Convention offences.
(2) For the purposes of this section the statements that are likely to be understood by members of the public as indirectly encouraging the commission or preparation of acts of terrorism or Convention offences include every statements which—
(a) glorifies the commission or preparation (whether in the past, in the future or generally) of such acts or offence; and
(b) is a statement from which those members of the public could reasonably be expected to infer that what is being glorified is being gloried as conduct that should be emulated in existing circumstances. […]

More relevant than the number of utterances, though, is the organisational structure of the propositional content of legislative proposals. Proposals always have as their propositional content some future course of action. Legislative proposals seem to have a three-level structured propositional content. These levels can be distinguished according to the degree in which the proposed course of action is specified. Figure 1 partially schematises the three-level structure of the first paragraphs of the Terrorism Bill:

Fig. 1

	Propositional content: future course of action(s)	
A proposal to…	Levels of the propositional content:	(L1)…make provisions related to terrorism.
		(L2)…create an offence related to indirect encouragement of terrorism acts.
		(L3)…create an offence related to indirect encouragement of terrorism acts in precisely the terms laid down in this text.

The first level of the propositional content is included in the first paragraph, also known as the "short title" of a bill. The propositional content of the proposal at this level is fairly explicit. It points to a general set of actions such as "to *make* provisions for and about offences […] connected with terrorism" and "to *amend* enactments relating to terrorism." The second and third levels are implicit in the fragment coming right after the sentence "BE IT ENACTED […] as follows" where the clauses of the Bill are introduced. The examples used in fig.1 to illustrate levels (L2) and (L3) are reconstructed from the text under provision 1(b)(ii). These levels specify jointly *which* provisions and amendments related to terrorism are proposed at the first level.

The role of the Second Reading in the lawmaking process

Public bills must go through a number of set stages before the Houses agree on their final text. Each of these legislative stages fulfils a specific role in the process of scrutinising the content of a bill. The first legislative stage of a public bill is the First Reading. At this stage the bill is simply presented before parliament by placing it on the Table. During the Second Reading the "principle" (also, "overall purpose" or "principles") of the bill is discussed and voted on. In Committee stage, a limited number of Members discusses the bill clause by clause, and, if it wishes, word by word. Members then can propose, discuss and vote on amendments to existing clauses. They may also add new clauses. At the Report Stage the House as a whole can consider further amendments to the clauses. The final stage of the bill is the Third Reading. At this point no further amendments can be proposed and the whole of the bill is debated and voted on as amended in Committee or on Report. If the bill is given Third Reading it moves to the Second Chamber (*Parliamentary stages of a Government Bill*, pp. 4-6).

Debates on each legislative stage relate to a specific 'motion.' The motion discussed during the Second Reading is 'That the bill be now read a second time' (Erskine May, p. 582). Debates on this motion have a specific format. There are usually one or two principal spokespersons from the Government, and the same number from the Opposition. The first turn is typically assigned to a Minster who introduces the motion on behalf of the Government. The minister then "outlines the overall purpose of the Bill and highlight particular parts of the bill the Government considers most important." When the Minister finishes his speech, the Opposition principal spokesperson(s) responds with his or her views on the bill. During the speeches of the principal spokespersons other members can make brief interventions. The debate continues with other Opposition parties and backbench MPs "giving their opinions on the principles of the Bill." The last person to speak is usually a second principal spokesperson from the Government who winds up the debate (*Second Reading*). If the House votes in favour of Second Reading, the bill proceeds to the Committee stage. If the House votes against, the bill can progress no further. A positive or a negative stance towards the motion is supposed to signal a positive or a negative stance in relation to its principle (*Bills and how they become law*, p. 2).

The role of Second Reading debates in the lawmaking process is better grasped when contrasted to the debates in Committee stage. Discussions in both legislative stages refer exactly to the same text—the bill as introduced in the First Reading, but the 'disagreement space' created by the performance of the legislative proposal is institutionally, i.e. *officially*, organised and distributed between the two stages.[2] Technically speaking, Second Reading debates should focus on the commitments assumed by the Government concerning the acceptability of the principle of the bill. Hence, although the Government is, by the very fact of performing the legislative

[2] 'Disagreement space' refers to the complex of reconstructible commitments associated with the performance of a speech act. Any of these commitments can function as a standpoint when it is in fact reconstructed and challenged by an interlocutor. In this sense, the disagreement space created by a speech act is a "structured set of opportunities for argument" (van Eemeren, Grootendorst, Jackson and Jacobs, 1993, p. 95)

proposal, also committed to the acceptability of "the details of the clauses," the latter should be *mainly* discussed and, *certainly voted on*, in Committee stage (Erskine May, p. 582). According to *Erskine May's Treatise* (2004) a committee is bound by the decision of the House, given on Second Reading, in favour of the principle of the bill, "and should not, therefore, amend the bill in a manner destructive of its principle" (p. 600). In other words, in Committee, the principle of a bill is no longer part of the disagreement space but rather an element of the 'common ground' between committee members.

The principle of a bill versus its details

From what has been said so far, it is clear that identifying the principle of a bill is central to the argumentative analysis of Second Reading debates. What is meant exactly by the "principle of a bill" is not stated anywhere in parliamentary procedures, but there is some consensus among participants to Second Reading debates, that the "principle of a bill" covers *at least* the following set of purposes:[3] (1) Those that appear in the "short title" of the face of the published copy when introduced to parliament; (2) those that the UK Parliament website details for each bill; (3) the main policy objectives set out by the Government before the bill is formally introduced. This can come through a Government White paper, for example.[4]

An examination of the purposes outlined for the Terrorism Bill reveals that what MPs identify as the "principle of a bill" corresponds to what were earlier distinguished as the first and second level of the propositional content of a legislative proposal. Purposes described under (1) and (2) unmistakably tally with the first level. Purposes described under (3) correspond to the set of actions proposed at the second level of legislative proposals (e.g. "We now *want* to cover indirect incitement to terrorism.")[5] Importantly, the principle of a bill does *not* encompass the third level of the content of a legislative proposal. This appears to be part of "the details" of a bill.

The definition of the principle of a bill proposed above must be taken as no more than a general guideline to identify the principles of a given bill due for debate in the Second Reading. It is not a black and white matter. For one thing, it is not always easy to determine what is to be regarded as part of the second level and what should be counted in the third level of a legislative proposal. MPs can determine this during their argumentative exchanges in the debate. For another, the Government can decide, also during the debate on Second Reading, that certain parts of the bill that clearly pertain to the second level should not be taken as principles but as issues to be discussed in Committee and Report stage. This is not a retraction of its commitment to the propositional content of the bill but a postponement of their defence.

[3] The information provided below is based on my e-mail correspondence with MPs and the House of Commons Information Office.

[4] A White Paper is a document produced by the Government setting out details of future policy on a particular subject. The White Paper allows the Government an opportunity to gather feedback before it formally presents the policies as a bill. A White Paper will often be the basis for a bill to be put before Parliament (*Glossary: Parliamentary language explained*).

[5] Although there was no White Paper before the introduction of the Terrorism Bill, Charles Clarke sent on July 15 a letter to the Conservative and Liberal Democrat home affairs spokesmen which fulfilled basically the same function. Clarke followed up this letter with a statement in the House of Commons on July 20 summarising its content.

Witten and unwritten conventions

As it is usual in institutionalised practices, along with the codified rules of procedures there are also unwritten conventions in Second Reading debates. Officially, the main purpose of these debates is to discuss the principle of a bill. This does not mean however that participants are not allowed at all to discuss the details of its clauses. As a matter of fact, it is a common and *generally accepted practice* for a Minister or other Member in charge of a bill to give a brief *explanation* of the content of the principal clauses at this legislative stage (Erskine May, p. 582). Likewise, it is customary for Members who disagree with the details of the legislative proposal to express publicly their dissent. These interventions are for the most part accompanied by argumentation supporting the claimed acceptability or unacceptability of the details of the clauses. In the following excerpt principal spokesmen of the Conservative party David Davis questions, for example, the undesirability of the definition of "indirect incitement" provided in clause 1(2) of the Terrorism Bill by referring to its undesirable effects:

> […] the term "glorification" still remains too broad, and I am not convinced that it is necessary or desirable. […] The proposed law does not require than an individual intends to encourage terrorism in order to commit a crime. It rests on the requirement that someone's comments could "reasonably be expected" to incite terrorism. That is a test of negligence, not of criminality. Of course, it also fails the Cherie test. The Prime Minister's wife famously talked sympathetically about the motives of suicide bombers, as the hon. and learned Member for Medway (Mr. Marshall-Andrews) reminded us. Unless the Prime Minister is seriously suggesting that his wife should be locked up, the clause needs to be thought through again. If it cannot be improved in that and the other aspects that have been mentioned today, it must be removed. (*Second Reading of the Terrorism Bill* 2005, Column 350)

It is important to bear in mind that there is no clash between the written and unwritten conventions of the activity type. A decision in favour of Second Reading at the end of the debate is still an indication that the House approves the principle of the bill, even if there are details, sometimes a large number of details, which it will want to amend. Thus, MPs may give reasons for voting in favour of Second Reading, while overtly disagreeing with important details. In the debate on the Terrorism Bill a large number of MPs—Conservatives in particular—assumed precisely this twofold position.

3. INSTITUTIONAL BEARING OF THE SECOND READING ON ARGUMENTATIVE DISCOURSE

How is argumentative discourse and, thus, pragmatic argumentation likely to be affected by the institutional setting of Second Reading debates? The answer depends on the theoretical perspective on argumentative discourse one assumes. In the pragma-dialectical approach argumentative discourse is always studied against the backdrop of the model of a critical discussion. To examine how the discourse is shaped by a given

argumentative activity type, therefore, one can examine how the activity creates, in advance, fixed outcomes for each of the stages of the model. [6]

Characterising the outcomes of the confrontation stage of Second Reading debates means identifying the main proposition(s) under dispute, the standpoints assumed by the parties towards the proposition(s) and the type of dispute(s) at issue. At the main level of the argumentative exchange there are two propositions under dispute: 'The bill should be read a second time' (p_1) and 'The details of the bill are acceptable' (p_2).

The first of these propositions is the motion—the official proposition—debated during the Second Reading. As it should be clear by now, the second proposition needs not, but can, and often is, debated during the Second Reading. The standpoints assumed by MPs towards p_1 and p_2 are either positive or negative. In debates where the bill introduced is a Government bill, the government will have a positive standpoint in relation to both propositions. Members of the Opposition can assume, in contrast, a positive or negative stance towards p_1 and p_2. Moreover, a party can perfectly assume a positive standpoint towards p_1, while assuming a negative standpoint towards p_2. The official position assumed by the Conservative party during the debate is an illustration of this. Of course, a party may also assume a negative standpoint towards both propositions. That the same party is allowed to assume a positive standpoint towards p_1 while a negative one towards p_2 means that the discussions over p_1 and p_2 run parallel to each other.

Discussions in the Second Reading are therefore mixed (and most of the times) multiple. Multiple disputes can be divided into two single mixed disputes. Fig. 2 summarises the conventionalised outcomes of the confrontation stage:

Figure 2

Type of dispute: multiple and mixed

Dispute 1		Dispute 2	
Proposition	Standpoints	Proposition	Standpoints
p_1: The Bill should be read a second time.	+/ p_1: The Bill should be read a second time.	p_2: The details of the bill are acceptable.	+/p_2: The details of the bill are acceptable.
	-/ p_1: The Bill should not be read a second time.		-/p_2: The details of the bill are not acceptable.

The opening stage of a critical discussion is usually "filled in" by institutionalised contexts with a large number of material and procedural starting points. The UK parliament is no exception to this rule. Besides the set of material starting points—previous legislation, bill of rights, international conventions, democratic values, etc.—to which the parties are committed to in virtue of their institutional role, Second Reading debates provide with at least two important procedural starting point. One of them stipulates that the main goal of Second Reading debates is to discuss the principle of the bill. This starting point works as a criterion to decide over the acceptability of standpoints +/p_1 and -/p_1. The second procedural starting point follows from the fact that it is the Government who has advanced the proposal. That the Government has performed the

[6] The characterisation of the activity type proposed in this and the next section is partial in the sense that it does not consider the implicit discussions between MPs and the public but only the exchnages between MPs in the floor of the House.

speech act means that it is the Government who defines what is part of the principle of a bill. Opponents can only argue against the principle of a bill—not offer a counter-proposal (a new bill) and with it a set of new principles.

The fixed outcomes for the confrontation and opening stages create preconditions for the arguments—pragmatic or otherwise—advanced at the argumentation stage of Second Reading debates. Figure 3 represents them in terms of positive and negative obligations:[7]

Figure 3

Institutional obligations at the argumentation stage:

(1) An arguer who is committed to +/ p_1 *must* show that the principle of the bill is acceptable.

(2) An arguer who is committed to -/ p_1 *must* show that the principle of the bill is not acceptable.[8]

(3) An arguer who is committed to -/ p_1 *cannot* defend -/ p_1 on the basis of -/p_2.

4. AN INSTRUMENT TO RECONSTRUCT PRAGMATIC ARGUMENTATION IN SECOD READING DEBATES

Pragmatic argumentation is studied in pragma-dialectics in terms of a speech act occurring at what can be reconstructed as the argumentation stage of a critical discussion. Basic instruments to reconstruct pragmatic argumentation have already been proposed in pragma-dialectics. The core instrument consists in an argument scheme representing the internal structure of the positive and negative variants of single pragmatic argumentation. The scheme is as follows: X is (un)desirable, because X leads to Y, and Y is (un)desirable (van Eemeren, Houtlosser & Snoeck Henkemans 2007, p.170). Aided by the scheme the analyst can, among other things, identify the occurrence of pragmatic argumentation in a given discourse and make explicit standpoints or premises that were left implicit. To reconstruct pragmatic arguments, however, more than the pragmatic argument scheme is needed. An appropriate reconstruction—i.e. one that is faithful to the communicative intention of the speaker—should also take into consideration the constraints that are operative in the activity type where the argumentation is used: institutional constraints can provide information as to the particular *function* that the argument is expected to have (in a normative and not just a factual sense) within that activity type. Institutional constraints can be a pointer in particular to the *standpoint(s)* that pragmatic argumentation should support.

[7] Obligations (1) and (2) are a corollary of the procedural starting point that a positive or negative position towards the motion is equivalent to a positive or a negative position towards the desirability of its principles, respectively. Obligation (3) follows from the fact that the details of the bill should not have an effect on the question of giving second reading or not to a bill but rather on whether or not to amend it in Committee or Report stage.

[8] Since the "principle of a bill" can actually cover several purposes, obligation (2) should be taken to mean that the arguer must show that *at least one* of these purposes is unacceptable.

To determine the function of pragmatic argumentation in Second Reading debates it is necessary to examine the point at which pragmatic argumentation can occur within the overall argumentative structure of these debates. There is no space to present here the complete structure of Second Reading debates, so I shall confine myself to the argumentative structure of the Government's principal spokesman speech concerning official proposition p_1. Once I have explained and justified the argumentative structure proposed, I turn to Clarke's speech during the Second Reading debate of the Terrorism Bill in order to show how the structure can be instantiated in practice and determine the role that pragmatic argumentation has in the Minister's speech.

The argumentative structure of the Government's spokesperson speech can be represented as follows:

1. The Bill should be read a second time.
    1.1. The principle of the Bill is acceptable.
        1.1.1a. The overall purpose of the Bill is desirable.
            1.1.1a.1a.The overall purpose of the Bill is P_1.
            1.1.1a.1b. Purpose P_1 is desirable.
        1.1.1b. The purpose of each clause of the Bill is desirable.
            1.1.1b.1a. The purpose of clause 1 is desirable.
                1.1.1b.1a.1a. The purpose of clause 1 is P_2.
                1.1.1b.1a.1b. Purpose P_2 is desirable.
                1.1.1b.1b. The purpose of clause 2 is desirable.
                1.1.1b.1b.1a. The purpose of clause 1 is P_3.
                1.1.1b.1b.1b. Purpose P_3 is desirable.
                1.1.1b.1c. (etc.)

    1.1.' If the principle of the bill is acceptable then the bill should be read a second time.

This argumentative structure is normative in the sense that it represents the kind of statements to which the Government is committed to before and during Second Reading and the kind of justificatory relationships that the Government's spokesman can use during Second Reading to defend these statements if requested to do so. The purposes of each of the clauses of the bill (P_2-P_{2+n}) refer to the actions proposed at the second level of the propositional content of the legislative proposal, while the overall purpose of the Bill (P_1) stands for the action(s) proposed at the first level. This structure will, of course, be expanded in practice.

The relationship between the premises concerning the desirability of the overall purpose of the Bill (1.1.1a) and the desirability of the purpose of each of the clauses of the Bill (1.1.1b) is described in coordinative terms. The relationship cannot be multiple since the fact that the overall purpose of the Bill is desirable is not sufficient reason to accept that the Bill should be read a second time. The way in which Members define the "principle of a bill" indicates that the Government not only has to show that there is a need for anti-terrorist legislation, for instance, but also that the particular anti-terrorist legislation that has been proposed is desirable in principle. Moreover, despite appearances to the contrary, the relationship at this level cannot be subordinative. In this interpretation, one possibility could be to take the introduction of a provision criminalising indirect incitement (or glorification of terrorism) as a necessary means to making provisions and amendments related to terrorism. This interpretation however is extremely uncharitable: there are obviously a number of alternative ways of making

provisions and amendments related to terrorism. Alternative interpretations (whole-part relation and symptomatic relationships) end up in similar (uncharitable) results.

To identify the function of pragmatic argumentation within this structure I propose a reconstruction of Clarke's speech in the debate of the Terrorism Bill. The Home Secretary commences his speech with the usual "I beg to move, That the Bill be now read a Second time." After emphasising the existence of a serious terrorist threat and "clarifying the values and society" that must be defend and "identifying the threat" with which they must to deal, he concludes:

> The most important conclusion to draw from this analysis is that there is no particular Government policy decision, or even overall policy stance, which could change in order somehow to remove our society from the al-Qaeda firing line. Its nihilism means that our societies would cease to be a target only if we were to renounce all the values of freedom and liberty that we have fought to extend over so many years. Our only answer to this threat must be to contest and then to defeat it, and that is why we need this legislation.
>
> I suggest that the best way to contest this threat is by (…) strengthening the legal framework within which we contest terrorism (...)
>
> (…) That means that we have to promote a society based on the true respect of one individual for another, one culture for another. It also means promoting the view that democracy is the means of making change in our society. We therefore need to take steps to isolate extremist organisations and those individuals who promote extremism. (…) That is why we need legislation to outlaw incitement to hatred based on religion or race. We need legislation that makes it clear that the glorification of terrorism is not a legitimate political expression of view. (…) (*Second Reading of the Terrorism Bill* 2005: Column 327)

This fragment can be (partially) reconstructed as follows:

1. The Terrorism Bill should be read a second time.
(1.1. The principle of the Terrorism Bill is acceptable.)
    (1.1.1a. The overall purpose of the Bill is desirable.)
        (1.1.1a.1a.The overall purpose of the Bill is to make provisions and amendments related to terrorism).
        (1.1.1a.1b. Making provisions and amendments related to terrorism is desirable.)
            (1.1.1a.1b.1a. Making provisions and amendments related to terrorism is necessary to strengthen the legal framework within which we contest terrorism.)
            1.1.1a.1b.1b. Strengthening the legal framework within which we contest terrorism is desirable.
                1.1.1a.1b.1b.1a. There is a terrorist threat.
                1.1.1a.1b.1b.1b. The best way to contest the terrorist threat is by strengthening the legal framework within which we contest terrorism.
                1.1.1a.1b.1b.1c. Our only answer to the terrorist threat must be to contest and then to defeat it.
                    (etc.)
    (1.1.1b. The purpose behind each of the clauses of the Bill is desirable.)
        (1.1.1b.1a. The purpose of clause 1 is desirable)
            (1.1.1b.1a.1a. The purpose of clause 1 is to create an offence of indirect incitement of terrorist acts.)
            (1.1.1b.1a.1b. Creating an offence of indirect incitement is desirable.)
                1.1.1b.1a.1b.1a. We need legislation that makes it clear that the glorification of terrorism is not a legitimate political expression of view.

(1.1.1b.1a.1b.1b. Creating an offence of indirect incitement is necessary to make it clear that glorification of terrorism is not a legitimate political expression of view).

1.1.1b.1a.1b.1a.1a. We need legislation to outlaw incitement to hatred based on religion or race.

(etc.)

(1.1.1b.1a.1b.1a.1b. Legislation that makes it clear that the glorification of terrorism is not a legitimate political expression of view is necessary to outlaw incitement to hatred based on religion or race).

(1.1.1b.1a.1b.1c. Creating an offence of indirect incitement is necessary to strengthen the legal framework within which we contest terrorism.)

[…]

1.1' If the principle of the bill is acceptable then the bill should be read a second time.

The reconstruction shows how the normative structure can be instantiated in practice. Premises specifying the content of the short title and the second level of the propositional content of the legislative proposal are only implicit. This is expectable since the text of the Bill is familiar to all participants. Equally implicit at this point of the debate is the inference rule 'If the principle of the Bill is acceptable then the Bill should be read a second time.'[9] Instead, Clarke first argues that there is a *prima facie* case for legislating on terrorism and then proceeds to defend the claim that *this* legislation is necessary. That is to say, he first specifies the purpose grounding P_1 and justifies its desirability, and then grounds the desirability of P_2, i.e. the action proposed in the first clause of the Bill. Note that in showing that *the Terrorism Bill* is necessary he does not refer to the details of the clauses but only to what the Government *intends* to achieve by means of those clauses.
The reconstruction also makes clear the primary role of pragmatic argumentation in the Government's speech during the Second reading: supporting the claimed desirability of the set of purposes P_1 to P_{2+n}. In other words, supporting premises 1.1.1a.1b, 1.1.1b.1a.1b and 1.1.1b.1b.1b outlined in the normative structure.

5. CONCLUSION

How does the reconstruction of pragmatic argumentation benefit from an insight into the function of pragmatic arguments in the Minister's speech during the Second Reading? Reconstructing pragmatic argumentation involves making explicit and organising all elements of the discourse that are *relevant to its evaluation*. Placing pragmatic argumentation within the institutionally defined argumentative structure of the Minister's speech is relevant to the evaluation of pragmatic arguments in three respects: (1) the

[9] Later in the debate Clarke will explicitly refer to this rule:

> The Liberal Democrats have legitimate arguments about the definition of terrorism in relation to the term 'glorification,' and about the extension of the time limit for detention from 14 days to 90 days. […] In relation to the structure of debates in the House, however, I do not believe that such doubts, which will be expressed, voted on and considered in Committee and Report—and which, if so serious, could lead his hon. Friend to vote against the Bill on Third Reading—ought to break the unity of the House in seeking to carry through the principle established on Second Reading. (*Second Reading of the Terrorism Bill* 2005: Column 331)

structure attributes to the arguer the standpoint that is officially at stake in the Second Reading; (2) the structure therefore determines which criticisms are relevant and which irrelevant to judge the strength of the argumentation; and (3) the structure enables an appropriate evaluation of the sufficiency of the argumentation advanced.

One of the critical questions used to judge the sufficiency of pragmatic argumentation is 'Are there undesirable side effects of realising X that should be taken into consideration as well? (van Eemeren, Houtlosser & Snoeck Henkemans 2007, p. 166). For instance, 'Are there undesirable side effects of introducing a clause which criminalises indirect incitement of terrorism? In view of the reconstruction proposed above, this question should be considered when judging Clarke's argumentation. On the contrary, the pragmatic argument advanced by David Davis referring to the undesirable effects of clause 1—locking up the Prime Minister's wife—is irrelevant to judge the sufficiency of the Home Secretary's argumentation. The latter since the claim defended by Charles Clarke is not that clause 1 is desirable but that the *purpose of clause 1* is desirable.

Link to commentary

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