

## INSIGHT

## Declining standards

**Margaret Ng** says Hong Kong's rule of law could be jeopardised if lawmakers and the government don't change their ways and take steps to improve the quality of the scrutiny of bills in Legco

When the last meeting of the Legislative Council began on July 11, there were eight bills and 17 government resolutions waiting to be passed. All would lapse if not passed by July 17.

On the list were bills to modernise Hong Kong's companies law, criminalise unfair trade practices and allow limited liability partnership for lawyers.

There were resolutions to endorse the appointment of judges to the Court of Final Appeal, expand legal aid and improve compensation for victims of the lung disease pneumoconiosis, and mesothelioma cancer. Last on the agenda was Chief Executive Leung Chun-ying's proposal to restructure the government.

On the floor, filibustering lawmakers tried to hold up the proceedings long enough to exclude the restructuring while allowing the rest to be passed. In the end, legislators succeeded in rushing through most of the list – seven items in the last hour alone – and at midnight, Legco president Tsang Yok-sing declared that there was no time to get to the last item.

Some might call this a triumph. The government-restructuring proposal was dangerous in

rushed. Over 800 amendments were advanced. Not only was the resulting legislation unsatisfactory, but being left to this stage, it gave filibustering lawmakers all the room for manoeuvre that they desired.

Another example is the Residential Properties (First-hand Sales) Bill. The policy had wide public support, but the government dragged its feet for years and waited until just a few months before the term's end to introduce the vastly complex bill. The Law Society and other experts pointed out numerous pitfalls with the bill, but neither Legco nor the government had time to go into them. Legislators knew the bill was far from perfect, but voted it through because imperfect regulation is better than none.

Had the government taken a more realistic move and withdrawn the restructuring proposal earlier, time would have been freed up for a more rational debate on the major bills.

Legco members are also to blame for frequently not giving bills the serious and sustained attention they require. It is true that some members are unavoidably overloaded with commitments.

Meeting times clash, making it impossible to attend all of them or stay for the whole discussion. Such patchy participation is not really meaningful and contributes little to safeguarding the quality of legislation.

Much of the problem is political. In the early years of the special administrative region, due process was taken more seriously by the government and legislature. A bill would be introduced only after due public consultation with a reasonable consensus. But as the government adopted more divisive tactics and interests became more and more fragmented, consensus has grown rare.

A bill may be stuck in the interdepartmental co-ordination process. Once introduced, the process of the scrutiny in Legco is often used as a battleground for bargaining or protest and can be interminable.

The Competition Bill was a vivid example. Many of its main provisions deserved critical scrutiny. But numerous meetings over two years of scrutiny were concentrated on a single issue: the adverse effect it was supposed to have on small to medium-sized enterprises.

"Political" bills, namely those concerning elections and voting rights, such as the bill disqualifying a resigned member from standing in a by-election, or those concerning government power versus individual rights, such as the wire-tapping bill, were ruthlessly rushed through by the pro-government majority.

At the other end of the spectrum, non-political bills which were important to our legal system got little interest and were avoided as "highly technical". They include such bills on civil justice reform, on legislative publication and making hundreds of military references in our statutes compliant with the Basic Law.

As someone who takes the law seriously, I



am deeply dismayed. I am disappointed by the government's failure to introduce an archives law to protect our disappearing public records, or an access-of-information law to give effect to the public's right to know, as well as many other overdue reforms to the law.

But above all I fear for the future of the quality of our law and the process of lawmaking. Fewer members now have the time or interest to understand legislation other than the effect it may have on their particular sectorial interest. The government, its own quality and res-

pect for the rule of law worsening, resorts to buying support with favours at the expense of balanced legislation. The minority faces the dilemma of adopting destructive tactics or becoming ineffectual and irrelevant.

Perhaps the Legco election in September will bring changes. The question is, will they be for the better or the worse?

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## Logic gap

**Paul Stapleton** says critical thinking is an important life skill and, as such, needs to be taught as a subject in its own right in schools

On a recent trip overseas, I was hiking up to a glacial lake with my wife when I asked her how to say the word "tarn" in Cantonese. The resulting blank stare was expected, but this got me thinking about all the glacier-related terms stored away in my memory that I learned in my high school geography class.

"Tarn" is the exception. Many of the other terms, concepts, historical facts and mathematical formulas I learned in high school disappeared soon after the final exam. This begs the question: why do we spend so much time in high school learning concepts and formulas that we will never use again in life?

Yes, we have heard the arguments about how our youth needs a solid grounding in the basics of a wide variety of disciplines in order to become informed citizens. Although many of the facts and concepts learned in high school are not directly applicable to everyday practical needs, they still provide a foundation. Or so the argument goes.

We also often hear that critical thinking skills are honed via tasks and exercises in school. While we will never have to prove congruency between two triangles after leaving high school, the process of doing so sharpens our critical thinking skills.

True enough. But if this is the case, why not actually implement a class on critical thinking instead of peppering curriculum policy documents with the term in the hope that these skills will somehow rub off? Let's take an example of what such a course could offer.

One of the most disturbing critical thinking deficiencies is the confusion between correlation and causation. For instance, there is broad belief in society that vitamin C helps to cure a cold. I have had students mention to me that it helped cure their colds.

It's a matter of fact that their colds would have disappeared at the same rate whether or not they had taken the vitamin C, given that there is no medical evidence that this vitamin can cure a cold. However, because they have consumed vitamin C, and this has coincided with the decline of their cold symptoms, they associate the two in a causative relationship. This basic error is commonly made by people on a myriad of events in life.

If there were a dedicated, mandatory subject on critical thinking, basic concepts such as this one would be explained. Other concepts such as base-rate neglect, regression to the mean, representativeness and the halo effect, all of which have an immediate impact on daily life, are a few more among many that students would be exposed to. Difficult concepts perhaps, but surely not as tough as the parametric equations taught in mathematics class. And certainly more applicable to everyday life.

I indeed, I appreciated knowing that a glacier carved out the tarn I saw recently. However, such knowledge pales when compared with the need to make informed and appropriate decisions in our daily interactions with people. Many of the critical thinking concepts mentioned above are non-intuitive and need to be taught. They are simply not acquired by way of studying mathematics or even liberal studies. In essence, if we are to instill critical thinking abilities in our youth, we need to establish a subject in which these abilities are taught.

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## Much of the problem is political. In the early years, due process was taken more seriously

substance and an affront to due process. It deserved to be shot down. But it came at a tremendous cost, especially to the quality of debate, which the community rightly expects to be of the highest level.

It is too easy to just blame the filibusters. In reality, both Legco and the government are to blame. And unless the underlying problems that led to the end-of-session conflict are addressed, the rapid deterioration of Hong Kong's laws will not be arrested and the rule of law will be undermined.

The government is by far the bigger culprit, not least because all major legislative proposals come from the government and the government has the primary control over the legislative programme. Under Legco's rules of procedure, government business has priority over members' motions. But, over previous years, the government has taken longer and longer to produce much-needed legislation and increasingly lost control over its progress.

The Companies Bill, for example, took more than 20 years to gestate and nearly five years to draft, but was only introduced into Legco for scrutiny over its more than 900 clauses last January. The review was compressed and

## Looking for a theoretical breakthrough to tackle China's daunting challenges

It is tradition that the general secretary of the Communist Party briefs the Central Party School in the run-up to the party's national congress. This year, new leaders will take office and their policies will steer China for the next five years. Thus, great attention was paid to the speeches of the outgoing general secretary, President Hu Jintao (胡锦涛).

During the address last week, Hu covered everything from politics, the economy and culture and livelihood issues to the construction of a more environmentally sensitive society. The thrust of the speech was that the central government would continue to reform and open up its economic system, with a particular emphasis on the "pace" and "strength" of those reforms.

Needless to say, China is once again at a crossroads. More than 30 years of economic reform has produced excellent results, making China the world's second-largest economy. But economic growth is slowing. Moreover, social conflicts, corruption and the inequitable distribution of resources are getting worse and the environment is deteriorating.

No consensus has been reached on how to solve these problems. While the government is tackling the challenges, there are those who question the effort to build a socialist society "with Chinese characteristics", as Deng Xiaoping (邓小平) famously put it. There are even those who openly oppose the economic reforms and advocate a "backwards" development.

Such people are not in great numbers, but their views have won

**Hu Shuli** finds clues about the guiding philosophy of the next generation of central government leaders in remarks by president and party chief Hu Jintao



the support of a handful of government officials and citizens. It was such retrogressive views that Premier Wen Jiabao (温家宝) was warning against when he talked about "detours" and "learned hard lessons" during remarks to the media at the National People's Congress in March.

In his speech last week, Hu made three resounding pledges. First, he would not waver in his commitment to socialism with Chinese characteristics. Secondly, he would continue to guide the nation on the correct path to development. Finally, he would stick with economic reform.

"Our country's rapid development in the past 30 years has been due to reform and the opening up policy and our country's future will continue to unwaveringly depend on this," Hu said.

Hu also expounded upon his "scientific outlook on development", which served as a reminder to his successors in the central party leadership. Hu emphasised the need to continue the theories and philosophies of Deng, as well as the important thought of "three represents" introduced by former president Jiang Zemin (江泽民). All of this can illuminate Hu's own idea of "theoretical innovation on a practical basis".

Hu reiterated the importance of

economic development to a thriving nation. He said reform was key to resolving the nation's problems and said "in modern China, persistence in making economic development our central concern means persistence in scientific development". Here, scientific development and economic reform are directly linked.

Hu addressed head-on the issues of political reform and people's livelihood, two topics of great public concern. Contrary to some who believe that political reform should be postponed, Hu described it as one of his top priorities. He pledged that elections, policymaking, administration and oversight would be carried out in a democratic manner and in accordance with the law. All of this repeats what was said in the 17th party congress in 2007, reflecting the difficulties involved in implementing such reforms.

Hu also subtly, but significantly, amended the party's commitment to "safeguard the consistency, sanctity and authority of the legal system", from the previous phrase of safeguarding the "consistency, sanctity and authority of the socialist legal system".

In regard to livelihood issues, he proposed continuous improvements to education, housing, health care, labour welfare and elderly assistance. All these are lofty and comprehensive goals that

Hu has set for his successors. Whether they can be achieved will depend on the next leader's efforts and ability.

The theory of socialism with Chinese characteristics has been adopted as a theme in the reports of five consecutive party congresses since 1987 and may be adopted again for the 18th party congress. It has long been a practice to build theoretical breakthroughs on the basis of the achievements of previous congresses. Numerous theories adopted at party congresses over the years have proved influential, including "primary stage socialism" (13th), the "socialist market economic system" (14th) and the "development of an economic system with dominant public ownership and diverse ownership" (15th). The rapid development over the past decades has been the result of such "reform dividend".

Hu's "scientific outlook" may form the basis of a breakthrough of the 18th party congress. The reforms of the past decade have acted as a catalyst for such breakthroughs, which are needed to tackle daunting challenges, both domestic and international. While the leadership transition is important, a theoretical breakthrough is more worthy of our attention as it will have a fundamental impact on China's future. Citizens concerned about their well-being should long for it.



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## Perhaps a good diet should again be a matter of morality

**Steven Shapin** finds value in the admonishment to eat in moderation

The maxim "you are what you eat" has defined dietary thinking for hundreds of years. The prevailing interpretation is simple: our bodies, like the foods that we eat, are chemical compositions. In order to live long and healthy lives, and to maximise our potential, we must consume the right chemicals – that is, foods with the right nutrients.

Not so long ago, however, this saying was understood quite differently, indicating a profound shift in the way that we think about our diet and ourselves – a shift that has powerful implications for current health debates.

In ancient Greek and Roman medicine, prevention was key. Regimen, commonly called dietetics, prescribed a lifestyle designed to keep people healthy. Indeed, dietetics was considered the most important area of medical practice. After all, with a sound diet, one would presumably never need a cure.

Dietetics was a prescription for an ordered manner of living, guiding people not only on matters of food and drink, but on aspects of their lives that affected well-being, including their places of residence, exercise, sleeping patterns, bowel movements, sexual activity, and an area neglected by medicine today: emotional control.

In short, dietetics was a matter of virtue as well as of bodily health. The medical profession doled out advice about how one should eat in the same breath as instructions about how one should live – and

about what sort of person one should be.

Traditional dietetic advice now seems banal, with its almost exclusive focus on moderation. For example, dietetic counsel would recommend that patients eat neither too much nor too little. The Temple of Apollo at Delphi bore the inscription "Nothing in excess", while Aristotelian philosophy held that the golden mean was the path to the good.

Given the current frenzy of fad diets and the eternal search for simple remedies for complex conditions, moderation in all things may seem like shabby medicine. But dietetics' conviction that health and morality are two sides of the same coin is a deep-rooted notion. After all, Christianity lists gluttony as one of the seven deadly sins.

Both good and good for you, moderation became a commanding idea: by rooting medical advice in powerful systems of social values, dietetics shaped medical thought for centuries.

This merging of medicine and morality now seems naively unscientific, thanks to "nutrition science", which replaced traditional dietetics as a formal discipline in the 19th and 20th centuries. Nutritional experts today are more likely to suggest monitoring cholesterol levels than they are to give such holistic and common-sense advice as moderation. Gluttony was once a sin; obesity is now a disease.

Because science ostensibly advances by setting aside moral questions to address material

cause-and-effect relationships, this shift could be perceived as progress. But the separation of the "good" from the "good for you" limits the influence of modern nutritional expertise on people's behaviour, ultimately undermining the goal of improving public health.

Historical change cannot be undone. But the ways in which modern societies handle excess, whether in people's diets or lifestyles, merit reflection. For example, one plausible explanation of the rise in obesity is the decline of the family meal – at which children might be urged to "eat more", but also would likely be told when they had eaten "more than enough". In today's eat-and-run culture, people increasingly tend to consume food free from fear of a disapproving gaze. Individuals eat alone, and societies get fat together.

While there is no simple solution to today's dietary woes, we can take a collective decision to reconsider not just what we eat, but our approach to eating, and to recognise the inherent value in eating together. A shared meal might be good for you as well as good.

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