

Submission No. 175**THE HONG KONG POLITICAL SCIENCE ASSOCIATION****Comments on Further Amendments to
the National Security (Legislative Provisions) Bill
Introduced on June 3, 2003**

The Hong Kong Political Science Association has already submitted two sets of comments on the Article 23 legislative proposals, first on the Consultation Report and then on the subsequent draft legislation. We have opposed this legislation and are deeply concerned by the potential negative consequences of such legislation. We stand by our earlier concerns and here merely add comments on the further amendments sent to us on June 5, 2003, as follows:

- 1. Amendments to the sedition proposals.** We applaud the addition of provisions on intentionality and likelihood of inducement in Section 9A(1) but strongly urge further amendment of these clauses to require the "immediacy" of such inducement. We suggest further amendment (underlined), as follows: "... likely to be induced to (where paragraph (a) applies) immediately commit the offence or to (where paragraph (b) applies) immediately engage in violent public disorder." Because of the risk of extending the chilling effect on speech we further suggest lowering the statute of limitations to one year from the currently specified three.
- 2. Investigative Powers.** While we appreciate the intention behind the amendment to raise the level of police officials who can approve a warrantless search, we feel strongly that such searches, in areas covered by this legislation, where free speech is so profoundly implicated, should always require a court-ordered search warrant on probable cause.
- 3. Proscription.** We are deeply concerned about the amendment that would vest the power to make rules for the appeal process in the Secretary for Security. This presents the public with the spectacle of the same branch of government which is charged with enforcement making the rules for appeal against its decision. This appears highly inappropriate in this sensitive area. As stated previously, we object to the notion that the Secretary for Security can ban a group based on her/his reasonable belief and we object to any presumptions being advanced based on the groups banning on the mainland. Under such a "reasonable belief" banning it is unclear what facts and conclusions would be appropriately reviewed on appeal. Because of these uncertainties and the great risk to free speech implicated we feel any action to ban a group should be based only on criminal acts in which the groups leading members and most members are involved and should require a prior court order, and not an administrative order subject to appeal. Such process could then follow normal judicial procedures, with any safeguards the courts deems appropriate.
- 4. Official Secrets.** We are deeply concerned that, after substantial testimony of support for amendment in this area, the government has not seen fit to amend the secrecy ordinance to include prior publication and public interest exceptions. We have previously indicated other concerns in this area but, as an academic organization, feel the need to emphasize this concern here. Any clauses in this regard should be worded to include research and reporting by anyone. Exposure by anyone of government impropriety, abuse of power or breach of trust should be covered by a public interest exception. At a minimum, this should reach academics and reporters.