

From Obscurity to Light — Tracking Equality’s Rise in the Making of Chinese Constitutions

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Abstract

This short paper explores two complementary issues in the history of the modern Chinese constitution’s development. First, why the conception of equal protection of the law (“*ping dung*”) was alien to the Chinese. Second, how this exotic conception was assimilated into the Chinese constitution and now occupies a prominent position in modern times.

The term *ping dung* was not employed to represent equality until the late 19th century. It is not native to the Chinese language and was imported into the language as a translation. *Li*, as the core of social norms since ancient times in China, performed the critical role of distinguishing the nobility, civilians and slaves, as well as defining *guan xis* so that social/political hierarchy may be established. In the late 19th century, when the elites of Ching Dynasty first encountered the Western notion of political equality, they were stunned. The author cited in this paper six varying attitudes to explain how different approaches were taken by the Chinese intellectuals at the time to graft political equality into the action plans of social/political reform, leading eventually to its introduction into the constitution making process.

From late Ching Dynasty, through the Republic of China, and then the contemporary People’s Republic, the principle of political equality almost without exception sat atop every bill of rights in numerous drafts/versions

of the Chinese constitution. Of all those drafts/versions, however, only two models were adopted, each advocating a unique approach in realizing political equality. This chapter of constitution making has hitherto received inadequate attention. Being placed prominently in the text of the constitution does not necessarily guarantee faithful implementation. On the other hand, if *ping dung* were entirely absent from the text, its implementation in the political world would be impossible.

Keywords: equality, the principle of equal protection of law, suspect class, political equality, equality among racial groups