

## ***Radboud Business Law Talk on 24 September 2021***

***Prof. dr. Lei Chen***

### ***'The New Chinese Civil Code and the Doctrine of Change of Circumstances: Some Reflections'***

In the wake of the COVID-19 pandemic, global businesses have witnessed unforeseen supply chain issues, losses of business and the inability to complete certain contractual obligations. The Doctrine of Change of Circumstances was originally a creature of judicial interpretation by the Supreme People's Court in China in 2009. But it is imperative to examine the new parameters which circumscribe the doctrine in the new Civil Code from 2021. With a comparative analysis, the main difference between the doctrines is that unlike the doctrine of frustration under English law which brings about an automatic discharge of the contract, the Chinese courts retain a discretion to modify the parties' contract in light of the changes in circumstances. This additional remedy of modification under the Doctrine of Change of Circumstances can prove to be a more commercially sensible solution than termination because it preserves long-standing business relationships. Nonetheless, this led many opponents to criticize the Doctrine of Change of Circumstances for blatantly disregarding the principles of sanctity of contract and party autonomy.

### ***Concise biography***

Lei Chen is [Chair in Chinese law at Durham Law School, Durham University](#). He is also an Adjunct Professor at School of Law, City University of Hong Kong and teaches the EMBA programme at City University of Hong Kong Business School.