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FOUNDATIONAL FACTS,
RELATIVE TRUTHS

A comparative law study on children’s right
to know their genetic origins

RICHARD J. BLAUWHOFF

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Richard J. Blauwhoff
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ACKNOWLEDGEMENTS

Looking back on the past four years, I can affirm, like so many researchers before me, that the writing of a dissertation can be a formative experience, not just academically but also personally. When I applied for a position as a Ph.D researcher at the Molengraaff Institute for Private Law in December 2004, I was lured by the comparative and human rights aspects of the research proposal because of my background in international and European public law. The subject matter, which the ‘right to know one’s origins’, also had a definite romantic sound to it. At the same time, the research topic still seemed very elusive and unfathomable. As far as I could tell, the research topic had to do with an individual search for one’s distant past and introspection. I also knew that once I would set myself such a task I would really want to finish it. This sense of commitment proved important for writing this book. But I questioned how one would be able to discuss such personal issues from a legal perspective.

Thus, back in 2004, I felt some apprehension at first. Indeed, ‘at root’, I wondered whether I would be able to combine academic distance with a personal interest in the topic. Soon after I started to immerse myself in the research topic, this initial apprehension and discomfort waned. I took an active interest in family law and I discovered that I could develop my own ideas about this research topic.

Four years later, I can still not claim this book to be fully my own. By this I mean that I will remain deeply indebted to a number of persons. First of all, I would like to thank my supervisor Katharina Boele-Woelki who, right from the very beginning, expressed her confidence in my ability to bring this research to a successful end. Your strong ideas about what comparative law should entail, provide but one example of how you manage to keep a broad horizon and an open mind while also insisting upon high standards for comparative law research. Moreover, your ability to combine a firm commitment to your own ambitions with an honest interest in all of your individual Ph.D candidates inspires admiration.
I would further like to thank all of my direct colleagues Bente, Christina, Christine, Ellen, Ian, Merel, Nora, Pia and Vesna for having contributed so much to creating a stimulating and friendly working environment. Among my direct colleagues, I would like to thank Wendy Schrama above all for her numerous invaluable comments and suggestions. Furthermore, a special thanks goes to Machteld Vonk for sharing her insights into parentage law and her legal expertise in the area of donor insemination and surrogacy. I also want to thank Peter Morris for editing my English and Titia Kloos and Willemien Vreekamp for making my manuscript camera-ready with such efficiency.

As I spent a considerable amount of time abroad over the past four years, I would also like to thank professor Frédérique Ferrand of the Université Jean Moulin Lyon III for her comments on French law. In addition, I would like to thank Professor Tobias Helms of the Philipps-Universität Marburg took much time to discuss developments in German law and gave me such a cordial welcome during my stay in Marburg and also commented on my manuscript. In addition, I would like to thank professor Guilherme de Oliveira of the Universidade de Coimbra for his time during my research period in Portugal. In Coimbra, I would also like to thank doctor Rafael Vale e Reis and his wife Carla Barbosa for their valuable comments and Portuguese hospitality. Moreover, I would like to thank doctor Willem Breemhaar, judge at the Leeuwarden Court of Appeal and professor Gerard René de Groot of Maastricht University and professors Jenny Goldschmidt and Jaap Sijmons of Utrecht University for their comments on my manuscript.

I would further like to thank my friends, both here in the Netherlands and abroad, for their enduring friendship which adds colour to my life. Without them this would surely have been a much more solitary enterprise. In particular, I would also like to thank my ‘paranymphs’ Christoph Jeloschek and Eline Veltkamp for their long-standing loyal friendship and kindness.

Last but very from least, I am fortunate to have found ‘true’ parents in Martin and Daphne and to have a sister like Fiona. Now closing a long chapter, ‘in a sense even before the book unfolds itself’, I am glad to be able to cherish fond memories and to be able to rely on strong and solid bonds.
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<td>AdvermG</td>
<td>Adoptionvermittlungsgesetz (German Mediation in Adoption Act)</td>
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<tr>
<td>Appl. No.</td>
<td>Application Number</td>
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<tr>
<td>AG</td>
<td>Amtsgericht (German local district court)</td>
</tr>
<tr>
<td>ART</td>
<td>Artificial reproductive technologies</td>
</tr>
<tr>
<td>art./arts.</td>
<td>Article, articles</td>
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<tr>
<td>BDSG</td>
<td>Bundesdatenschutzgesetz (Federal German Data Protection Act)</td>
</tr>
<tr>
<td>BGB</td>
<td>Bundesgesetzbuch (German Civil Code)</td>
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<tr>
<td>BGH</td>
<td>Bundesgerichtshof (Federal Appeal Court)</td>
</tr>
<tr>
<td>BT-Drucks.</td>
<td>Bundestag Drucksachen (publications of the Federal German Parliament)</td>
</tr>
<tr>
<td>BVerfGE</td>
<td>Bundesverfassungsgericht (Federal German Constitutional Court)</td>
</tr>
<tr>
<td>CA</td>
<td>Cour d’Appel (French Appeal Court)</td>
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<tr>
<td>Cass.</td>
<td>Cour de Cassation (French Cassation Court)</td>
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<tr>
<td>CDU/CSU</td>
<td>Christlich Demokratische Union (Christian Democratic Union)</td>
</tr>
<tr>
<td>CJFA</td>
<td>Centre Juridique Franco-Allemand</td>
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<tr>
<td>CNAOP</td>
<td>Conseil National pour l’Accès aux Origines Personnelles (French National Council for Access to Personal Origins)</td>
</tr>
<tr>
<td>DCC</td>
<td>Dutch Civil Code (Burgerlijk Wetboek)</td>
</tr>
<tr>
<td>DI</td>
<td>Donor insemination</td>
</tr>
<tr>
<td>DIY</td>
<td>Do it yourself</td>
</tr>
<tr>
<td>DNA</td>
<td>Desoxyribo Nucleic Acid</td>
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<tr>
<td>EC</td>
<td>European Communities</td>
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<td>ed/eds</td>
<td>editor/editors</td>
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<tr>
<td>e.g.</td>
<td>for example</td>
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<tr>
<td>ECHR</td>
<td>European Convention on Human Rights</td>
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<tr>
<td>ECtHR</td>
<td>European Court of Human Rights</td>
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<tr>
<td>EschG</td>
<td>Embryoschutzgesetz (German Embryo Protection Act)</td>
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<tr>
<td>EU</td>
<td>European Union</td>
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<tr>
<td>FamRZ</td>
<td>Zeitschrift für das Gesamte Familienrecht</td>
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<tr>
<td>Abbreviation</td>
<td>Description</td>
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<tr>
<td>Fiom</td>
<td>Federatie van Instellingen voor Ongehuwde Moeders (Dutch federation of institutions for unmarried mothers)</td>
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<tr>
<td>FPR</td>
<td>Familie, Partnerschaft und Recht</td>
</tr>
<tr>
<td>Gg</td>
<td>Grundgesetz (German Basic Law or German Federal Constitution)</td>
</tr>
<tr>
<td>HR</td>
<td>Hoge Raad (Dutch Supreme Court)</td>
</tr>
<tr>
<td>ICCPR</td>
<td>International Convention on Civil and Political Rights</td>
</tr>
<tr>
<td>ICSI</td>
<td>intracytoplasmic sperm injection</td>
</tr>
<tr>
<td>I.e.</td>
<td>that is; in other words</td>
</tr>
<tr>
<td>IVF</td>
<td>In vitro fertilisation</td>
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<tr>
<td>IRCO</td>
<td>Immigrant and Refugee Community Organisation</td>
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<tr>
<td>LG</td>
<td>Landsgericht (German regional court)</td>
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<tr>
<td>LJN</td>
<td>Landelijk jurisprudentienummer (Dutch national case-law reference number)</td>
</tr>
<tr>
<td>LPMA</td>
<td>Lei da Procriação Medicamente Assistida (Portuguese Medically Assisted Conception Act)</td>
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<tr>
<td>NCJM-Bulletin</td>
<td>Nederlands Juristen Comité voor de Mensenrechten-Bulletin</td>
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<tr>
<td>NGO</td>
<td>Non-governmental organisation</td>
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<tr>
<td>NJ</td>
<td>Nederlandse Jurisprudentie</td>
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<td>NJB</td>
<td>Nederlands Juristenblad</td>
</tr>
<tr>
<td>No</td>
<td>Number</td>
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<tr>
<td>NJW</td>
<td>Neue Juristische Wochenschrift</td>
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<tr>
<td>NVOG</td>
<td>Nederlandse Vereniging voor Obstetrie en Gynaecologie (Dutch association for obstetrics and gynecology)</td>
</tr>
<tr>
<td>OLG</td>
<td>Oberlandesgericht (German regional court of appeal)</td>
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<td>Para.</td>
<td>Paragraph</td>
</tr>
<tr>
<td>PCC</td>
<td>Portuguese Civil Code (Código Civil Português)</td>
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<tr>
<td>PS</td>
<td>Partido Socialista (Socialist Party) (Portugal)</td>
</tr>
<tr>
<td>PstG</td>
<td>Personenstandsgesetz (German Civil Registration Act)</td>
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<tr>
<td>Rb</td>
<td>Rechtbank (Dutch first instance court)</td>
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<tr>
<td>Rdnr.</td>
<td>Randnummer (margin note number)</td>
</tr>
<tr>
<td>RG</td>
<td>Reichsgeschützt (Court of the German Empire)</td>
</tr>
<tr>
<td>RoP</td>
<td>Rules of Procedure</td>
</tr>
<tr>
<td>SchKG</td>
<td>Schwangerschaftskonfliktgesetz (German Pregnancy Conflict Act)</td>
</tr>
<tr>
<td>SPD</td>
<td>Sozialdemokratische Partei Deutschlands (Social-Democratic Party of Germany)</td>
</tr>
<tr>
<td>Stb.</td>
<td>Staatsblad (Dutch official journal)</td>
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<tr>
<td>StGB</td>
<td>Strafgesetzbuch (German Criminal Code)</td>
</tr>
<tr>
<td>TGI</td>
<td>Tribunal de Grande Instance (French Court of First Instance)</td>
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<tr>
<td>Abbreviation</td>
<td>Full Form</td>
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<td>--------------</td>
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<tr>
<td>UN</td>
<td>United Nations</td>
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<tr>
<td>UNCRC</td>
<td>United Nations Convention on the Rights of the Child</td>
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<tr>
<td>ZPO</td>
<td>Zivilprozessordnung (German Civil Procedural Code)</td>
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