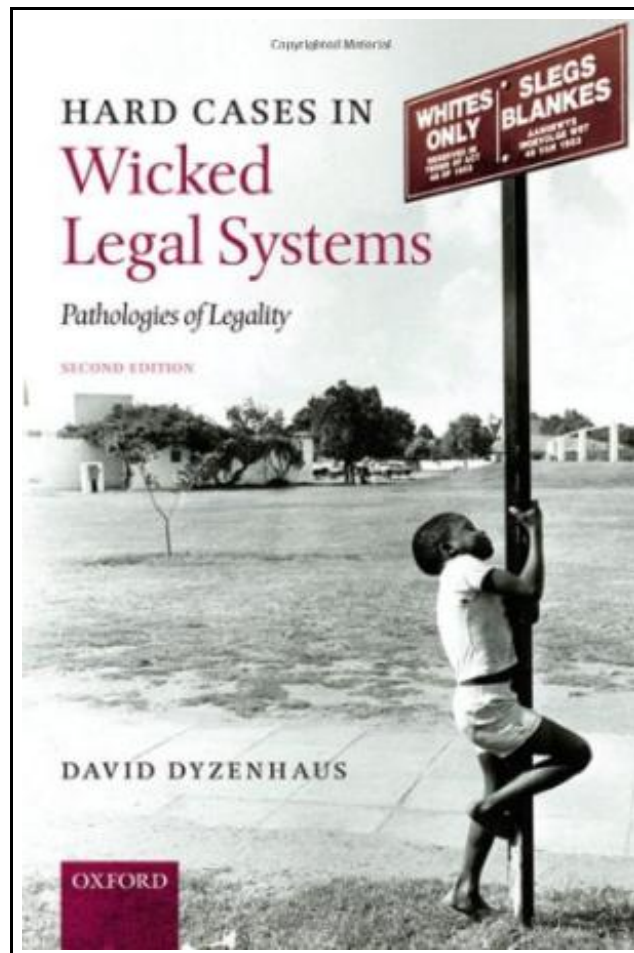


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HARD CASES IN WICKED LEGAL SYSTEMS: PATHOLOGIES OF LEGALITY (HARDBACK)



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Oxford University Press, United Kingdom, 2010. Hardback. Book Condition: New. 2nd Revised edition. 234 x 164 mm. Language: English . Brand New Book. The idea of a wicked legal system, one whose laws have been made the instrument of a repugnant moral ideology, continues to play an important part in philosophical debates about the nature of law and law's claim to moral authority. It seems to offer support for the argument of legal positivists, who insist on a clear conceptual distinction between legal requirements, deriving from social sources, and moral requirements. Does the existence of wicked legal systems present an insurmountable obstacle to critics of positivism who reject the importance of that distinction? The abstract debates of legal philosophers can seem far removed from the practical application of law in the business of deciding cases. This book argues that theoretical disagreement matters profoundly to the practice of law, and analyses the abstract debates of legal philosophy through a detailed study of judicial interpretations in apartheid South Africa - a model wicked legal system . The case study shows that particular conceptions of law and of the rule of law determined the reasoning both of judges whose decisions supported official policy and of judges whose decisions resisted that policy. The first edition of this book was published in 1991. Since then South Africa has transformed, and the major debates in legal theory have shifted from analysing the concept of law itself to analysing the concept of legality and the value of the rule of law. For this substantially revised new edition, the author addresses the transformation of South Africa since the end of Apartheid, and the shift in focus of legal philosophy. He also examines the emergence of counter-terrorism security laws, and the arguments surrounding their conformity to the rule...



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