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Hard Cases in Wicked Legal Systems: Pathologies of Legality (Hardback)

By Professor David Dyzenhaus

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...

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