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Binder, Avery Awarded Magavern Fellowships

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the United Nations General Assembly.

If adopted by the General Assembly and ratified by 10 nations, a uniform worldwide law for new types of international negotiable instruments would be created. “It may take another six years, though, before it is signed and ratified,” he says.

A third important set of agreements that will provide a secured financing component are also currently being developed—a Convention on Lease Financing and a Convention on International Factoring.

Spanogle is optimistic. “Everything seems to be on track,” he says. “I think we have a once-in-a-lifetime opportunity to get this process going in a major way.” But he is quick to point out there is still much work to be done.

His current project, for instance, will fill a gap in the Convention on International Bills of Exchange and Promissory Notes. That pact doesn’t cover the vast bulk of payment transactions: it excludes checks and does not cover electronic funds transfers, “a different kind of animal, legally,” Spanogle explains.

“Right now, more money is transferred internationally by electronics than by any paper based mechanism, whether you’re talking about currency in shopping bags or suitcases, checks, or credit card slips. That is because securities markets are now world-wide, integrated and international. To settle up those transactions, you need to transfer massive amounts of funds.”

How much? A mind-boggling $5 billion dollars per day.

To remedy this situation, Spanogle now serves as Chief of the United States’ Delegation to UNCITRAL’s Working Group on Electronics Fund Transfers (EFT). In this capacity, he represented the United States in a series of meetings last November and July that were held at the United Nations to develop model rules on electronics fund transfers. Spanogle expects the project to last three years. At present, the United States is in the process of drafting proposed legislation in this area.

“The exciting thing about this is that there is no national law anywhere to cover even domestic electronic funds transfers from customer to customer. What we’re doing is cutting edge stuff,” he says.

“One of the reasons we call it model rules is that we hope domestic law will be modeled on the product that we put out. Whether that will happen or not I don’t know. But almost every country in the world has some committee trying to create domestic law. If those domestic laws can at least look similar in structure, so they can work together, then we will have been helpful.”

He loves the work because “You’re learning how civil law lawyers approach dealing with problems of the development of law. To me, the legislative process is terribly fascinating and I see this as the international analog of what we think of as the legislative process.”

He once ran into a problem with a delegate from the Soviet Union, but the disagreement stemmed from an interpreter’s error and had nothing to do with politics. Simultaneous translations into six languages occasionally cause some confusion. Unlike the General Assembly, however, UNCITRAL is not dominated by politics, says Spanogle.

“UNCITRAL works the way the UN was supposed to work, probably because most of us are technical experts,” he says.

“I wouldn’t know a dialectical argument if I tripped over it, and that’s true of most everybody else. I’m just as likely to agree with the delegate from China as from France or Switzerland.”

In the Fall, Spanogle began a one year leave of absence to occupy the Lobingier Chair of International Law at George Washington University in Washington, D.C.

“I think professors get paid to do more than just teach classes,” he says. “You expect research to be done, but there is a public service component as well.”

Avery, Binder Share Magavern Award

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he William J. Magavern Fellowships for 1988-89 have been awarded to two faculty members: Associate Professor Dianne Avery and Professor Guyora Binder. Both will share in a $10,000 award from a fund established by Samuel D. Magavern in honor of his father, to support special research projects at the Law School.

Avery, who teaches family law and labor law, will be engaged in a study of conflicts between private property rights and rights of collective action under federal and state labor laws. “The inquiry is an important one and we are pleased that she has undertaken it,” said Dean Filvaroff.

Binder will pursue two areas of scholarship and writing with the support he will be receiving as a Magavern fellow. First, he expects to complete his book manuscript which explores delicate but critically important issues surrounding the theoretical foundations for an historically sensitive interpretation of the Civil War amendments to our Constitution.

His second project is a comparative study of President Lincoln’s constitutional thought, one of a series of essays that Binder is writing. According to Dean Filvaroff, “Binder’s analytical scholarship has made significant and useful contributions to the development of legal theory.”

Professor John "Andy" Spanogle