

PROLAW 10th anniversary: Two visions, two souls, one goal
Promoting and advancing the Rule of Law

Dialogue with William T. Loris and Thomas F. McInerney

María Gabriela Mata Carnevali¹

In 2020 Loyola University Chicago (Loyola) celebrated its sesquicentennial anniversary. With Loyola's Rule of Law for Development Program (PROLAW) also celebrating an important ten-year milestone, and a generational shift at its direction, a conversation with the Founding Director Emeritus, Prof. William T. Loris and his successor, the new Executive Director, Prof. Thomas F. McInerney, seems appropriate to understand the origin of this unique program, to know about its objectives and the challenges that lie ahead.

This way, the PROLAW Journal inaugurates *Dialogue with* a new section of interviews, that will shade light on the trends and challenges of the field.

¹ María Gabriela Mata Carnevali. Venezuelan Internationalist (UCV). MA in African Studies (COLMEX), and MJ in Rule of Law for Development (PROLAW). Research fellow of the African and Asian Studies Center of the University of Los Andes (CEAA-ULA), and the Loyola University Chicago Rule of Law Institute (LROI). Member of the Latin American Association of Asian and African Studies (ALADAA).

PROLAW: Globally inspired but locally rooted



Dialogue with William T. Loris

Founding Director Emeritus, Rule of Law for Development Program (PROLAW)

Prof. Loris has been a leading advocate for the rule of law throughout the developing countries as co-founder of the International Development Law Institute (IDLI), which was later transformed into the well-known International Development Law Organization (IDLO). He joined Loyola in 2010 at the summit of a distinguished career in international service. Member, World Bank Global Forum on Law, Justice and Development (2011-date). Member, World Economic Forum's Global Agenda Council on Corruption (2008-10). Represented IDLO at World Economic Forum (2005-2010).

MG As founder of PROLAW can you tell us the story of how this program started?

WL It actually started by good luck and a fortuitous combination of events.

MG Really?

WL Near the end of my term as the Director General at the International Development Law Organization (IDLO), I was invited to an alumni event in Rome attended by several years of alumni of Loyola' Rome Center. I was introduced by the Director of the Rome Center, John Felice, to Michael Garanzini, S.J., the President of Loyola University Chicago at that time. He knew I was an alumnus of the Rome Center and that I was doing work that had something to do with the rule of law. We had a short talk and agreed that he would visit IDLO the next day. When he came over to IDLO we talked about the IDLO mission and work, but what I remember most was that while walking around our offices, we opened some doors and saw a

training program which was under way with people from all over the world. It obviously made an impression on him. At the end of the visit, he said “I’m going to come back to you.” I really didn’t think much about it, but a month later he came back and invited me to send him a concept paper for some kind of rule of law program at the Loyola’s Law School. He said that he wanted to discuss it with the Dean of the Law School at an upcoming meeting of the Board of Trustees.

I thought about the idea for several weeks. I had never envisaged becoming an academic. I give credit to my wife for coaxing me to sit down and write something and to see what emerged. My challenge was to find something that was new and different at the same time because I did not want to duplicate what was already being done. One morning, I woke up with a simple but powerful idea.

Most of the internationally backed rule of law assistance work that was being done at the time had a very large component of foreign expertise. The people working on the different projects were not from the countries being assisted, and I thought it was time to change that. Loyola could offer a program which would focus on building up local “rule of law advisory capacity” through a program of practice-oriented education and training in order that local advisors would be able to provide globally inspired but locally rooted advice on how to advance the rule of law. National advisors understand the local context better than any foreign expert. They know the problems facing their countries, the available resources, the potential allies and potential spoilers. They know who they need to convince to win support for difficult changes.

I developed that simple idea in a three-page background note and a summary of the possible curriculum and sent it to the University President.

MG What year are we talking about Professor?

WL We’re talking about 2009.

MG ...and in 2010 you became the first director of the program, which from your story, we can tell was international from the beginning.

WL Yes, it was international since the beginning. It is international in nature.

MG Why Rome and not Chicago?

WL Well, you know the Loyola had a campus in Rome that offered a mix of undergraduate courses which would allow a range of students to be in Rome for a semester or an academic year and continue to earn credits toward their degrees. I took part in the Loyola Rome program when I was 19 years old. It made a big impression on me and changed my life. Loyola had been thinking about using its Rome Center for graduate level studies. Of course, I was already in Rome, so, Rome seemed like an easy choice.

MG It is interesting that you mention the impact that experience had in your life because my next question is about Ignatian Pedagogy and charisma: is it or not relevant to the program?

WL It was, it is, absolutely, Father Garanzini saw that connection.

MG What did he see exactly?

WL He saw that our program is a program about social justice and its pursuit through education, which encourages learning and reflection about how social change is needed to achieve social justice.

He understood that the rule of law is not just about courts and criminal justice systems. There is a whole political philosophy behind it. It involves governance and any kind of organization where you have human beings coming together and trying to cooperate. The writing of rules, their implementation, the common acceptance of duties and rights. Rule of law is, in fact, linked to every sphere of life, including health, human rights, education.

MG Even environment.

WL Yes, and there are both winners and losers in all those spheres. The rule of law sets the limits and the protection for all the people involved.

**“Our program is a program about social justice
globally inspired but locally rooted”**

He saw that. I really did not envisage my work over the last few years as a Jesuit inspired, but he was right, and it fits very well in the University.

MG ...So, you got the support of the University to start the whole thing.

WL Yes. The University saw that very few law schools in the United States or elsewhere had a whole degree program on the rule of law itself. Now some programs include the rule of law as a subject of study, but there was not too much going on anywhere in the world on this.

The University went through its administrative processes and then came back to me saying, effectively, that they would like me to do this, but they also said that they wanted me to help in finding the money for it. The program could not be supported from the direct budget of the University. We would have to find tuition paying students and some kind of third-party funding to support students coming from the developing countries.

MG What a challenge!

WL Yes! So, a large part of my work in the first year was trying to find that sort of support. And that's something that goes on actively,

MG Mostly considering the scholarships for students coming from the Global South.

WL Many scholarships, but for every scholarship, someone has to pay. Our major grant was from the Bill & Melinda Gates Foundation. Bill Gates' father, Bill Gates Sr., was a lawyer and he was co-chair of the Foundation. He could easily relate to the ideas behind our initiative and the way we actually implemented those ideas in what became the PROLAW program.

MG Do they continue to fund it?

WL In a sense, yes, because some of the money that was granted in the beginning, is just finishing, because it was a large amount to help us get started. They refer to that as a “seed grant”.

MG How was the response on the part of the students? How did you do to attract students from all over the world?

WL We used many ways to spread the word on the program. We had a very good response. To date we have over 190 alumni from 60 countries.

“To date we have over 190 alumni from 60 countries.”

MG You watered the seed and it started to grow. In June 2020, after 10 years of being at the front of PROLAW, now you can look at it from a certain distance. What have been the biggest changes and what has remained the same?

WL Well, what has remained the same is the core idea but, of course, every year we revise the courses, so they change over time. For example, the development paradigms in which rule of law work takes place keep changing, and sometimes quite rapidly. The financial architecture and the development goals change, so you have to revise the content of the courses, but the main ideas of the program have remained the same.

Another thing that has remained the same, and I think that is unique of this program, is it practical approach. That goes back to the very core idea of national people having to do their work and what do they need to do that work. What do they need to know, what kind of skills do they have to master, and what attitudes do they have to develop. That's very important, because rule of law advisors, whether they are lawyers or not, need to know how to influence those who make the decisions. That takes a lot of skills and patience.

**“We have to somehow influence the decision-making process
by doing good homework,
by offering really good options,
by listening to all stakeholders and try to find a path between them.
Our job is to get some change”**

MG Well, some balance is required, I think, to avoid the so-called "colonization of aid"

WL That's a good point because if you go back and you look at the history, and you talk to people who are involved in the field, it always comes out this idea: that people are more likely to accept a change in the legal framework that grows out of their customs, values and histories than something which comes from the outside. Even so-called universal ideas need to be carefully introduced and translated into local understandings by knowledgeable and well-trained local advisors, for such ideas are going to inspire sustainable change. Of course, this takes time. The idea is that people need to believe change might be good and to change their behave in accordance with that.

MG Talking about human feelings, now from a more personal point of view, what are you most proud of from your time serving as the Director of the Program.

“I am very proud of the stories that people come back with, which they say are linked to what they learned in their courses”

WL Well, I am very proud of the stories that people come back with, which they say are linked to what they learned in their courses. Many of the PROLAW alumni have taken the basic ideas they were exposed to and done things, which have had a positive impact in their countries or regions.

That's actually what this is all about because we could have all these wonderful classes but if, in the end, it doesn't result in that kind of change, they would have meant nothing. Students becoming leaders and change agents on rule of law and human rights is my gold medal.

The second thing I feel very proud of is succession. When you are a founder of anything, you need to think about succession from the first day. We dealt with that in the founding papers and in the governance of the program as it has developed.

And now Professor McInerney has stepped up to take over as the PROLAW Executive Director. His name was clearly among those under consideration by the University since the founding of the PROLAW program. He is a pioneer in this field. He has both the required experience and a solid theoretical background. So, our focus on sustainability and succession has paid off. Professor McInerney will be thinking about succession too, and that is a great thing. But even with a great succession, there are challenges in the field which the program will have to face.

MG What would be those challenges?

Some of the problems that made us think about founding the program are still there. There has even been some backsliding. We find many countries that have forms of government that leave the citizens apart from decision-making about things regarding their own lives. We are witnessing the removal of some of the safeguards in some countries like the independence of the judiciary and the respect of human rights.

MG Democratic backsliding, autocratization, and de-democratization. Yes. That is the case in Venezuela, Nicaragua, Hungary, Poland, Romania, Egypt, and Myanmar just to name a few. Terrible.

WL The stakes are high. A real challenge for the rule of law.

We also have some new forms of geopolitical competition between countries which are unhealthy.

This is exactly why this approach of putting a lot of resources into preparing people to do their own rule of law work is the only way you can ensure that positive changes will happen when small opportunities arise. Sustainability of progress toward the rule of law, better governance, and democracy depend significantly upon the quality and appropriateness of the advice and guidance which national legal experts bring to the reform agenda.

Projects have an end, and all the people involved dissipate and go home.

All projects which are international in nature have great resources and access to incredible and quite inspired expertise from all over the world, but no matter how great it is, it would always lack knowledge about the local context.

“No matter how great we might think of ourselves as experts, when you go to someone else's country you only know 10% of what's going on around you”

Someone who is from the country has the tremendous advantage of knowing how things work at a local level. Therefore, if they can have the same tools as that expert, they will be much stronger.

So, I think that these seemingly intransigent problems will only be solved over time through continual pressure by people who are globally inspired and locally rooted.

MG The role of our journal vis a vis these challenges?

This Journal is representative of what you, the students and alumni of the PROLAW program can do. For me, the Journal and the people behind it are inspirational and a confirmation that the idea of building a local but globally inspired base of expertise on the advancement of the rule of law is both a sound and a realistic way of working toward a better world.

Making a Difference



Dialogue with Thomas F. McInerney

Executive Director, Rule of Law for Development Program (PROLAW)

Prof. McInerney is an international lawyer with a background in international and corporate law, global governance, regulation, development, and strategy. He has led numerous innovative initiatives to improve international law and advance global development. Based in Rome, Italy, he is admitted to practice in the State of New York in the United States. He serves as Vice-Chair of the American Society of International Law's Transitional Justice and Rule of Law Interest Group.

MG This year you assumed the role as the new Executive Director of PROLAW, can you tell the story of how you became part of this program?

TM I was working at the International Development Law Organization as the head of research. Bill Loris, who was the director-general, was preparing his retirement. His term was ending. One day, he told me that he had been in touch with Loyola University Chicago and that he had the idea to start an academic program at the Law School. I mentioned to him that I had gone to Loyola University Chicago for my Master's and, therefore, I knew the university. He said that was perfect because he needed help with the academic part of the proposal. So, on my weekends and free time, I started contributing to what became his formal proposal for the program. When it was approved, I was still working at IDLO, but assumed two classes (research methods and

legal writing, and history, theory and practice of law for development), and for some time, I combined the two things, but then, eventually, I decided to concentrate on teaching.

MG So, you were part of the program from the very beginning.

TM Yes!

MG And I imagine you could choose the courses you wanted to teach...

Yes! Interestingly, the history class was developed out of a kind of lunchtime seminar series that we had at IDLO. We looked at some of the research in the field and discussed it over lunch, and I took those ideas and created the history theory and practice class out of it. Later on, I assumed teaching also the international development architecture class, and when we started the capstone project, I assumed teaching that as well. So yes, I've been increasingly involved in the program since the beginning. For some time, I had other consulting work, but then about four years ago, I became a full-time professor. And last year, I took over as the director.

MG What did it mean to you to become the director?

TM Oh well, it's quite gratifying because I have always believed in this program and its value is constantly demonstrated through the work of former students around the world. I think it is a great honor to be able to say that maybe I've had some influence on whatever they are doing to make a difference there where they are.

MG “Make a difference.” Take action for justice in its wider sense and “make a difference”. You and Professor Loris are both former students of Loyola. Do you think that this program is linked to Ignatian charisma?

TM It certainly got an important link in terms of efforts to promote *social justice* in the world. But while things in the religious tradition may be more aspirational or more driven by ethics and value considerations, our program is more about the practicalities. And, in this sense, I think, it's a useful contribution that we're making towards that ambition.

“While *social justice* in the religious tradition may be more aspirational or more driven by ethics and value considerations, in our program is a matter of practice. And, in this sense, it's a useful contribution towards that ambition”

I think you can't have and you can't achieve social justice without a legal and institutional framework that ensures it. The university has recognized that. And that's part of why it has committed to our program and provided the necessary support.

MG Last year Loyola University Chicago celebrated its sesquicentennial anniversary. With PROLAW also celebrating an important ten-year milestone, what is the balance, and which the main challenges regarding the future?

TM The biggest challenge is always financial sustainability. But I think for a program that's been around for 10 years, there's a need to continue to maintain the focus on what the purpose of the program is while refreshing and updating the content of the courses. Therefore, one of

my big objectives is to see how we can expand the program by complementing and building on things that we've already done with an eye on the current challenges and how thinking in the field is evolving.

One of the things we need to play up is the topic of *people-centered justice*. It is not enough to promote the right institutions or well-functioning institutions; it is urgent to drill down deeper and question ourselves on how can we make these institutions work with and for the people.

"It is not enough to promote the right institutions or well-functioning institutions; it is urgent to drill down deeper and question ourselves on how can we make these institutions work with and for the people"

I am convinced that if the institutions are, let's say, well-structured, efficient, and not corrupt, but they don't serve people, if they aren't helping to address their real needs, if they cannot uphold their ability to earn a living, granting their rights, preventing them from being abused or discriminated against, then, the system is not delivering the rule of law.

So, I think that aspect of our program needs more emphasis to make it more consistent with what's happening in today's international development agenda, particularly around the Sustainable Development Goals and SDG 16.

MG The challenges that you may see in the field itself... Information and Communication Technologies (ICTs), for instance.

TM I think technology is certainly affecting both positively and negatively on the rule of law. On the one hand, technology is providing new means for ensuring accountability of public officials, police, and other authorities in society. But, on the other hand, technology is also providing regimes that are anti-democratic or illiberal with means of surveillance intruding on citizens' lives, on attacking political opponents.

And of course, on the other side, civil society movements around the world have benefited tremendously from the power of technology in terms of advancing their agendas. And I think that those have been very powerful counter-movements to the authoritarian tendencies that we've seen in some countries. We have to build on the positive aspects of technology while addressing its potential repressive uses.

But the most immediate challenge is the attention to these and other issues in light of the pandemic and its effects on the financial structure of aid. I expect that we're going to see some shifting over the next couple of years away from the rule of law agenda. Something that we need to advocate to prevent.

"I expect that we're going to see some shifting over the next couple of years away from the rule of law agenda. Something that we need to advocate to prevent"

The OECD has done a survey of development assistance for the past decade, and it shows quite clearly that there's been a big decline in support for governance and rule of law issues. I've looked at the data and the decline has continued in 2019.

Somewhat counterbalancing that tendency has been an increase in support for rule of law work in particular sectors such as health care, environment, and gender. So, for instance, in health care, there is an increasing interest in issues of human rights in terms of access to medicines, universal health care as a right, or issues of accountability, and, in the environmental field, the question of environmental justice and all sorts of regulatory issues in terms of improving national environmental protection standards and accountability of governments for environmental protection. Of course, gender issues will continue to be among the priorities.

This trend may affect the demand for capabilities in this field that we need to take into account.

MG What is the goal for the Journal?

TM I think the Journal is an important complement to other things that we're doing in the program. I encourage all of our students to develop their interests in particular areas and to think about working in the rule of law field as a lifetime pursuit. Writing is an important part of their professional development. So, I think the Journal provides an important outlet for our students to develop and advance their capabilities and to develop their knowledge and understanding in specific fields. That's ultimately going to make them more competitive professionally, and it will certainly contribute to their personal fulfillment.

“I encourage all of our students to develop their interests in particular areas and to think about working in the rule of law field as a lifetime pursuit. Writing is an important part of it”

On the other hand, our Journal provides an important source of information for our stakeholders, the people interested in the program. It provides evidence as to what things students in our program are thinking about and talking about, and it provides the students with exposure to the issues that the different writers are contributing.

Hopefully, it can provide an additional source of information, of knowledge about how the rule of law can be promoted and advanced around the world.