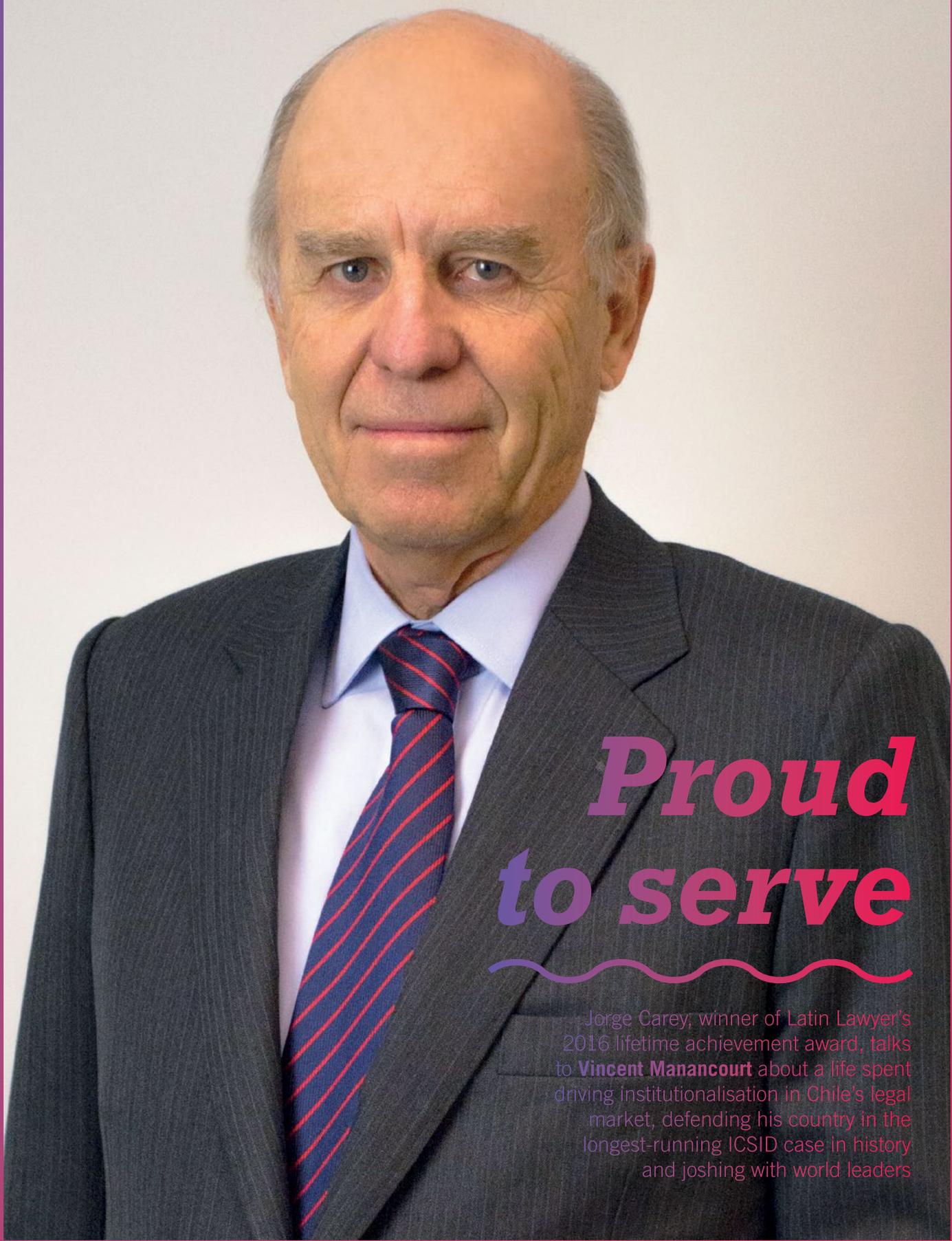


LATIN LAWYER

THE BUSINESS LAW RESOURCE FOR LATIN AMERICA

Lifetime achievement award
Jorge Carey

A professional headshot of Jorge Carey, an older man with thinning grey hair, wearing a dark grey pinstriped suit jacket, a light blue dress shirt, and a dark blue tie with thin red diagonal stripes. He is looking directly at the camera with a neutral expression. The background is a plain, light-colored wall.

Proud to serve

Jorge Carey, winner of Latin Lawyer's 2016 lifetime achievement award, talks to **Vincent Manancourt** about a life spent driving institutionalisation in Chile's legal market, defending his country in the longest-running ICSID case in history and joshing with world leaders

In August, Chilean president Michelle Bachelet paid a state visit to Mexico, her first since Enrique Peña Nieto was sworn in as the country's president in 2012. As part of a packed two-day schedule, the two heads of state hosted a forum promoting trade and investment between their two countries for entrepreneurs and business leaders. Also present was Jorge Carey, one of Latin Lawyer's lifetime achievement award winners in 2016. Minutes before the forum was about to begin, the head of the Chilean delegation came to Carey with a request: could he say a few words on behalf of all the Chileans in attendance? "Not being an entrepreneur, this was a total surprise," recalls Carey. "But I agreed, went up to the podium with our two presidents and had to improvise!"

It's not uncommon for the 72-year-old to find himself in such a position, and that says much about his standing in the country. Whether it be accompanying Chile's presidents around the globe, representing the country pro bono before ICSID, or playing a pivotal role in alleviating the South America's debt crisis in the 1980s, Carey has been at the centre of it all for nearly half a century. This is perhaps why, in 2015, a local magazine named Carey as one of the 12 most influential people in Chile. He is typically modest when discussing this particular accolade. "It was a shock to see myself on the cover of the magazine and I still think it must be a mistake," he says. When pushed, he cites his part in making his law firm, Carey, the legal powerhouse it is today as the most likely reason for his inclusion on the list. "I don't like to blow my own trumpet, but I am the leader of the largest law firm in Chile. So my inclusion is more a recognition of how influential the firm is than anything I have done personally."

"Pre-ordained"

The son and grandson of lawyers, Carey always knew he would follow in their footsteps. "It was pre-ordained," he says. Sure enough, after finishing his schooling at the prestigious Saint George's College in Santiago, he enrolled on a law degree at Pontificia Universidad Católica - by many accounts the best university in Chile and, according to British education researcher Quacquarelli Symonds' Top University Rankings, among the top three in Latin America. While there, he developed a keen interest in tax law, thanks to a particularly inspiring professor. "My tax lawyer professor, Gustavo Serrano, was humble and intelligent," remembers Carey. "He was unique at the time because he didn't just stand in front of the class and lecture; he would ask for our opinions and always felt he could be wrong. He believed that you only reach the truth through debate."

Carey graduated in 1966 as valedictorian. His good grades earned him a Fulbright Scholarship, which he used to pursue his passion for tax law, enrolling in an LLM at New York University. He graduated top of his class there too and started work at his grandfather's firm - then known as Carey & Co - shortly thereafter. It became evident fairly early on, however, that the young Jorge Carey was in need of international experience, and in the early 1970s he returned to the US where he took a post as a lawyer at the International Monetary Fund (IMF). He quickly settled in, and was involved in the process of replacing China's nationalist government, which had decamped to Taiwan and lost control of the mainland, with the People's Republic of China as the country's representative in the fund. Yet Carey was still hungry for experience, and barely nine months into his stint at the IMF, left to take up a position at the International Finance Corporation (IFC), the private sector arm

of the World Bank. At the IFC he was put in charge of the legal side of handling private sector lending to projects in Latin America's southern cone, a role that involved a great deal of travelling and negotiating with local lawyers and banking syndicates. It was there that Carey's early interest in tax was replaced by a penchant for project finance and corporate law. This, along with the knowledge and skills gained at the IFC, would benefit his law firm later on. "One of the reasons our firm grew so much in the 80s and 90s was because I could attract the big financial clients. Because I knew the intricacies of that world, they would trust me. And once we had gotten one or two big banks, the others followed," he says.

Building an institution

Upon his return to Chile in 1974, Carey set about institutionalising what was then still very much a family-run firm. "We opened up the firm and established a different form of corporate governance," he says. The law firm subsequently adopted a structure that was already in use at the major US and UK firms, whereby career progression is based solely on professional merit. This meant Carey giving up his 40 per cent stake in the firm, a decision he does not regret. "It was a wise move. This system has meant we have been able to recruit and keep excellent lawyers because they feel equal and part of the project," he says. Under the governance structure, approximately 75 per cent of the profits are shared between the partners equally, while the remaining 25 per cent are distributed according to a series of objective and subjective criteria, such as how much of a team player the partner has been. Carey was adamant from the start that the firm would not adopt an eat-what-you-kill structure, a compensation system where partners' earnings are calculated according to how much business they drum up for the firm. "Eat-what-you-kill creates division. If you have this system there tends to be competition between the partners as to who can be seen to be bringing in more clients and income," opines Carey. "We prefer a collective approach where the clients belong to the

"Eat-what-you-kill creates division. If you have this system there tends to be competition between the partners as to who can be seen to be bringing in more clients and income"

firm. A lawyer can even be penalised for not handing over a client they have acquired to a better-qualified colleague.” Carey’s emphasis on collaboration rather than competition is part of a long-term strategy to make the law firm a pleasant place to work. To the same end, he has always insisted on having an inclusive culture. We are very liberal in the sense that we have staff of many faiths and from many different backgrounds,” he says, adding that this approach is not yet as standard in Latin America as it is in the US and the UK. As evidence of the kind of relationships lawyers develop while at the firm, Carey cites comments made by a former partner, Ricardo Escobar, who highlights the attention senior partners show to younger partners. “I take a lot of pride in that, because culture is not something that develops overnight. It’s something I’ve been working on for the last 30 to 40 years,” he says.

Driving institutionalisation at his grandfather’s firm was one highlight for Carey during the 1980s, but it is by no means the only one. Another was working on the sovereign debt crisis in 1982 and 1983. Considered the worst economic crunch in Chile since the Great Depression, the 1982 crisis saw the country’s GDP retract by more than 14 per cent and unemployment reach 24 per cent. The cause of the crisis is generally agreed to have been the overvalue of the Chilean peso and excessive borrowing by the state. With jobs at two of the most prestigious organisations in world finance under his belt, the 39-year-old Carey suddenly found himself in high demand from Chile’s creditors. “It was hard to believe I was doing work of such importance at that age. I was actually representing Chile’s foreign lenders in the biggest sovereign debt crisis the country had seen,” he says.

This period was also marked by a surge in M&A work for the young lawyer. The government of General Augusto Pinochet, which had come to power in a military coup in 1973, was privatising many companies that had been expropriated by the previous president, the Marxist Salvador Allende. Carey has mixed feelings about this controversial period of Chile’s history. “It was very painful because we were living under a dictatorship and human rights violations were taking place. But I have to say that the economic transformation which took place during the Pinochet years clearly lay the foundations for the economic success Chile has experienced since,” he says.

Carey took the reins of the firm in 1985. His younger brother, Jaime, came soon thereafter to share management duties. Jaime became managing partner, while Jorge took up the position of executive chairman, a role that involves, among other duties, playing a role in deciding how the remaining profits are shared among the partners. Both Jaime and Jorge have been re-elected ever since they took up the roles. “My brother and I could be ousted by a majority of the partners in a secret ballot whenever they may want. I suspect that the fact that they have not done so has much to do with preferring the devil you know,” he quips. Jorge Carey has proven so popular that when he was due to stand down as executive chairman, the partnership voted to keep him on – the only way an exception can be granted. Carey didn’t think twice about accepting the offer. “I’m having a ball doing what I am doing. And I have many clients that rely on me and I still do a lot of work for the firm. So I would like to stay on until my partners feel like I am not contributing,” he says.



Jorge Carey (l.) is presented with Latin Lawyer’s lifetime achievement award by last year’s winner, Carlos Urrutia (r.) of Colombia’s Brigard & Urrutia Abogados

On the world stage

Indeed, even at the venerable age of 72, Carey remains as indispensable to his country as he is to his firm. Since 2002 he has represented the Chile on a pro bono basis in the largest ever ICSID case filed against the country. The case centres around a left-leaning daily newspaper, *El Clarin*, which was expropriated by General Pinochet in 1973. Spaniard Victor Pey Casado, a 100-year-old publisher, claims he owned the newspaper at the time and sought nearly US\$800 million in compensation. In 2013, to Carey's surprise, Chile was ordered to pay US\$10 million in damages, after the tribunal overseeing the case found Chile in breach of the fair and equitable treatment standard under a bilateral trade agreement with Spain. Though the US\$10 million represented a fraction of the amount claimed by Pey Casado, Chile and Carey sought an annulment of the award, and won. "The ruling was unacceptable to us because we dispute that Mr Pey Casado was ever the owner. We have evidence that the funds disbursed by him to buy the newspaper really came from Cuba and Czechoslovakia. So the owner is probably Fidel Castro or someone from the Soviet bloc, but not Mr Pey Casado," he says, noting that the trade agreement came in 20 years after the newspaper was confiscated. "We are now fighting the whole issue all over again. The judgment will be rendered any time now." Pey Casado maintains his publishing business was unlawfully seized by the Chilean state during the dictatorship of Pinochet.

As a thank you for carrying out this work for free, Carey has been invited to attend many a state function by presidents past and present. A particular highlight was a trip to Ireland with Ricardo Lagos, who served as Chile's president between 2000 and 2006. "I spent a night or two at the official residence of the Irish government, I think it was a former Guinness family palace, and then we went out to see the troops and were saluted – I mean that is a hell of a reward!" he says. Carey's memento of that particular trip is a picture of him and President Lagos in front of a bust of Bernardo O'Higgins, a member of a noble Irish family who led the Chileans to free the country of Spanish rule. "Lagos sent me that picture. Under the picture he had written 'To Jorge Carey in testimony of friendship and a great trip to the land of his ancestors,'" says Carey, whose great grandfather was Irish. Through these trips Carey has gotten to know four of Chile's most recent presidents, and admires them all (even if he doesn't always agree with their policies). "Whenever I go abroad with our presidents I feel proud to be Chilean because they are all very cultured, intelligent people," he says.

But Carey's sphere of influence extends far beyond Chile's borders. As a senior member of various chambers of commerce, he has rubbed shoulders with a host of world leaders over the years. Though he has many fond memories of meeting the likes of George Bush Sr, Margaret Thatcher and Stephen Harper, he has a particular soft spot for the former Canadian premier Jean Chrétien. "Jean is one of the funniest men I've ever met. In serious meetings he would always be cracking jokes and making us laugh in front of the press, and we wouldn't be able to say why we were laughing because they were off-colour jokes," he recalls. "But at the same time we could also talk about very deep issues like abortion, tax reform and economics."



Jorge Carey (r.) with the former president of Chile, Ricardo Santos (l.), in front of a bust of Bernardo O'Higgins, a Chilean independence leader

Despite the hobnobbing and high-profile pro bono legal work, Carey is adamant his professional priority remains leading the firm that shares his name. And though he is keen to keep working there for as long as his fellow partners will have him, when the day comes to step down he will do so without complaint or regret. Being on the board of various companies and participating in charitable institutions will keep him occupied, he says – not to mention a (close to) one-digit handicap in golf he has to maintain. His greatest achievement? His family (a wife of 50 years, five children and 15 grandchildren), of course, but also his firm. "I have been part of this great run that Carey has experienced in the last 30 years, from being just a small family firm to becoming the largest and arguably the most influential in the country. But this is not just my achievement, it is the firm's. Our firm has been my life."