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News & Articles

Briefed in Bangalore

Helen Coster
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In recent months Microsoft Corp. began using Indian professionals to search for prior art -- written information about an invention -- in preparation for filing patent applications. Other *Fortune* 500 companies, such as Oracle Corp., have considered it. And law firms, which often follow the lead of their clients on new initiatives, are finally catching on.

Outsourcing may be a dirty word in this year's presidential campaign. But in the real world -- where costs and competitiveness matter -- lawyers, like other professionals, have started to recognize the value of tapping into the highly educated, English-speaking Indian workforce to carry out tasks that would typically be performed by junior-level employees. Several outsourcing companies are courting the U.S. legal market, using Indian lawyers, scientists, and other trained professionals in cities like Hyderabad, Bangalore, and Noida. There are a few different emerging models. Vendors like Lexadigm Solutions and Lawwave.com rely exclusively on Indian lawyers to conduct low-level legal work and analysis. Others, like OfficeTiger, use a mix of lawyers and trained professionals to handle legal and nonlegal tasks such as managing conflicts databases and document management and review. A few vendors specialize. Intellevate has hired an Indian staff of lawyers and Ph.D.s to conduct patent research and other IP work. The company has a dedicated team devoted just to Microsoft's patent work.

Smaller law firms are taking advantage of the range of services offered by these companies. Document review is the most popular task to outsource. In most cases a vendor scans and uploads the documents onto a secure Intranet site. Lawyers in India access the documents, identify responsive and privileged documents, and, when complete, upload their findings back onto the Intranet.

The process varies slightly for lawyers who outsource IP prosecution work, rather than just discovery. "A large company will send us an invention description," says Intellevate chief executive Leon Steinberg, who oversees 72 Indian employees and offices in Bangalore and Noida, a suburb of New Delhi. "We would have a computer science expert, or some other kind of trained specialist, do research and determine whether the invention can be patented. They use proprietary databases and online tools to conduct research. Then they post their search result on a Web site that only our client can access."

Some law firms and legal departments have opened their own offices staffed by Indian employees, rather than outsourcing their work to a third-party vendor. This is called offshoring. In 2001 General Electric Co. established a legal team in Gurgaon, India, with lawyers and paralegals who draft documents like contracts. Bickel & Brewer, a 34-lawyer Dallas litigation firm, opened a facility in Hyderabad, India, in 1995. Several hundred Indian employees -- both lawyers and nonlawyers -- scan, code, index, and abstract documents. Bickel & Brewer's offshore practice has been so successful, says partner William Brewer, that the firm spun it off as a standalone company.

While cost might be the most obvious incentive for outsourcing legal work to India, lawyers cite a number of other motivating factors. One is the 9-to-13-hour time difference between the United States and India, which gives U.S. lawyers the sense of operating on a 24-hour-basis. "When I go home at six I can have them do the grunt work, research, and proofreading that I would otherwise have other people do," says Solan Schwab, a New York-based solo practitioner who outsources research projects like analyzing state-by-state insurance regulations with QuisLex, which has 12 lawyers in Hyderabad. "Then when I come in in the morning, I receive a beautiful e-mail with research done exactly how I like it."

Schwab sees outsourcing as the answer to the age-old dilemma facing solo practitioners: an erratic work flow that doesn't justify the overhead of a full-time staff. He estimates that by outsourcing legal work, he spends about one-third to one-half of what he would spend on hiring a full-time associate. He adds that because he has the manpower to take on new business, he has been able to generate about $50,000-$60,000 in new revenue. "I usually bill the clients a certain hourly rate and pay these folks a portion of that rate." Schwab says that the markup depends on whether the client is an individual or a corporation.

Even with the occasional markup, lawyers say that the financial incentive of outsourcing legal work is the factor that most impresses their clients. "None of my clients have opposed it because it saves them money," says Noah Henry Simpson, of five-lawyer Simpson, Woolley, McConachie of Dallas. "It probably saves them at least half of what they would usually pay."

Vendors charge an hourly rate or on a per-project basis. Lexadigm charges $60 per lawyer per hour, Atlas Legal Research charges $80, and OfficeTiger will not disclose its fees. (London's Allen & Overy is currently outsourcing word processing to 74 OfficeTiger employees, a practice that the firm says saves "a seven-figure sum.") Quislex gives clients the option of being billed by the hour or project. Intellevate offers three pricing mechanisms: a seat license, which can range from $1,200 to $4,500 per month; a straight hourly rate, which varies from $12 to $65 per hour based on experience; and a flat fee for a particular activity, such as $390 for seven hours of prior arts searching.

The lure of inexpensive labor, however, isn't enough to convince many lawyers that outsourcing legal work to India is a good idea. Their primary concern is security, and how to deal with issues of attorney-client privilege. "If I'm one firm and I'm outsourcing work in India, then I don't know that another firm isn't using the same lawyers," says G. Hopkins Guy, an IP partner in the Silicon Valley office of Orrick, Herrington & Sutcliffe.

Proponents of outsourcing explain that outsourcing work to India is no different from outsourcing scanning and coding of litigation documents to a vendor or legal work to a temporary lawyer. But Guy and others are not convinced. "We need to tightly manage conflicts," he says. "I've heard of instances where just by sending documents out to a place like Kinko's, lawyers have had problems with conflicts." Guy adds that while Orrick routinely uses outside vendors to do document imaging and processing, he prefers that those vendors be located fairly close to his office and within easy access to manage the quality of the end product.

Orrick also hires temporary, or contract, lawyers. The difference, says Guy, is the hands-on way that Orrick manages and integrates these lawyers. "We'll put a group of contract attorneys with Orrick lawyers in a room with eight computer terminals," Guy says. "[While reviewing documents] someone will often have a question, like 'I see this here. Is this important?' and they can ask a supervising attorney. But if I have a contract attorney who is by himself, in India, what do they do with that question? Maybe he can send an e-mail and get a reply a day later. But quite naturally you would think that they would say it's not important and move on. And I want that question immediately answered. That's why I don't see outsourcing of this type working."

Many lawyers feel uncomfortable with the idea of outsourcing work to professionals whom they've never trained, let alone met, yet whose work reflects the quality of the firm. "I would be concerned about the absence of quality assurance," says Matthew Powers, the head of patent litigation in the Silicon Valley office of New York's Weil, Gotshal & Manges. "If you ship work to India and there's a problem and the judge says, 'How did this happen?' and you say, 'I don't know,' then there's an abdication of responsibility." Powers says that he'd be nervous to rely on legal research completed by someone he doesn't know. "We invest a lot of time in training and managing our people to ensure that we get a high-quality work product. I'd rather find efficiencies in other forms."

Other lawyers question the wisdom of outsourcing, citing the time needed to review the work done by Indian professionals or to manage the flow of information. Oracle, for example, decided it wanted its patent professionals closer to the business units. Yet proponents of outsourcing say that the practice becomes increa-singly efficient with time. H. Wynne James III, a partner in 250-lawyer Louisville, Ky.-based Stites & Harbison, is realistic about the management required to outsource legal work to India. His firm has outsourced legal research and pieces of M&A transaction and is currently considering forming an alliance with outsourcing vendors and Indian firms. "If I think that I am going to get a high quality from the first day, I'm kidding myself," he says. "I think that this is not without its real challenges. One is efficiently managing Indians and American lawyers in the same engagement. I think that the internal mechanics of a lot of firms are not structured to handle that very well."

Lawyers were reluctant to use temporary lawyers when the service started nearly two decades ago. Small firms were the first to embrace the concept. Today, they are present in firms of all sizes. But as some lawyers have found, this kind of universal acceptance doesn't happen overnight. As James says, "One of my partners said, 'I thought you were crazy when I thought you meant Indiana.'"

THE INSIDE SCOOP ON LEGAL OUTSOURCERS			
Company	**Web site**	**Personnel**	**Most popular outsourcing requests:**
Atlas Legal Research	atlaslegal.com	3 lawyers in Bangalore	legal research and brief writing
Intellevate	intellevate.com	72 employees in Bangalore and New Delhi	patent proofreading, prior arts searches, and paralegal functions
Lawwave.com	lawwave.com	8 lawyers working on an as-needed basis in Chennai	document review and legal research
Lexadigm Solutions	lexadigm.com	6 lawyers in Gurgaon	research memos, briefs, and surveys of state law

OfficeTiger	officetiger.com	Declined to say how many lawyers and nonlawyers in Chennai	word processing and legal research
Quislex	quislex.com	11 lawyers in Hyderabad	research and document review

Nation Builder

Nathan Koppel
The American Lawyer
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It's a Saturday in August, and Sanjoy Bose is glimpsing the future of India from the backseat of a chauffeur-driven Mercedes. The Reed Smith partner is based in Washington, D.C., but spends much of the year in his native India, putting together deals. He is currently about 15 miles west of New Delhi, in a suburb called Gurgaon, which translates as "the village of gurus."

Today, though, spirituality is little in evidence. The dominant motif of Gurgaon is glass and concrete, as in glass skyscrapers, upscale apartment buildings, and shimmering shopping malls with digital billboards in the style of Times Square. Everywhere, as far as the eye can see, construction cranes hover above the emerging skeletons of still more office towers and apartment buildings.

Here, as throughout much of India, the growth has been spurred by outsourcing. American Express Co. has a call center in Gurgaon, for example, and International Business Machines Corp. recently acquired a local business process outsourcing facility. Industry has come here because New Delhi, with its stately government buildings and English roundabouts, has little prime real estate to offer.

Inevitably, Western lawyers have also come to Gurgaon. Today, Bose is on his way to the Golden Greens Golf & Country Club, a new 18-hole course on the outskirts of the city. The club's developer, an Indian steel producer, hopes to build million-dollar villas on his course to cater to Gurgaon's newly rich. He has hired Bose to help arrange financing for the venture. The attorney is anxious to see the club's layout, but, at present, it looks like he'll never make it there.

The Mercedes is stuck in traffic on the narrow, rutted road that connects New Delhi to Gurgaon. Pink pigs and shirtless boys scamper in shallow, roadside ditches. Cows wander the road's median, swatting at flies with their tails. Occasionally, they venture into traffic. India is like this: Even at its most developed, it always seems at best a half-generation from real modernity. Bose is buried in his BlackBerry, scrolling, slowly, through a queue of e-mails. The 40-year-old lawyer is nearing the end of a weeklong business trip. He has crisscrossed the country, meeting clients in Mumbai (formerly known as Bombay), Bangalore (India's outsourcing capital), and New Delhi. The pace has been grueling -- too much so at times for Bose, who is battling a mysterious virus that he contracted several days earlier -- but the trip has offered an enticing glimpse at the opportunities available to go-getters in this suddenly deal-happy country.

Aspiring lawyers, though, beware: India is not for the faint of heart. Clogged roads, dirty, chaotic airports, and spotty telephone service are just the half of it. Under India's Advocates Act, 1961, only Indian citizens who graduate from accredited Indian law schools can practice law in the country. Foreign law firms are also currently barred from opening law offices in the country, even if they are staffed entirely with Indian lawyers.

But global law firms are a persistent bunch, and, inevitably, they have found ways to get a piece of the world's fourth-largest economy. English and American lawyers have long represented foreign companies investing in India as well as Indian companies doing domestic and overseas deals. This sort of work is entirely permissible, so long as the lawyers aren't in India when they are doing it. But to build vibrant India practices, lawyers must be on the ground there. So, firms are blazing ahead, dispatching their lawyers to navigate the country's rugged byways, in search of the next Indian Trammell Crow or IBM.

Reed Smith is one firm that has moved quickly and devised innovative strategies for staking a claim. The 1,000-lawyer firm, headquartered in Pittsburgh, has landed a roster of high-end Indian clients, from industry titans to banks and real estate developers. It has five partners who routinely work on India projects. But, more unusually, it has also formed a joint venture with a financial consulting firm that specializes in Indian deals and refers work to Reed Smith.

The partnership was the brainchild of Sanjoy Bose. He was born in Bombay to a prominent Indian family. His great-uncle, Subhas Chandra Bose, was the founder of the Indian National Army and a catalyst for India's independence from Great Britain. Today, 60 years after his death, he is considered one of the country's foremost political figures. Sanjoy Bose was educated in the United States, graduating from William & Mary School of Law in 1992. Bose's goal was to practice international law with a focus on India. His timing couldn't have been better. In 1991 India made its first major strides toward liberalizing its economy through privatization and by partially opening its doors to foreign investors. Western companies rushed in, and so did their attorneys.

Bose's legal career developed at a rapid pace. In the nineties, he served successive stints at CMS Energy Corp. in Dearborn, Mich.; Winthrop, Stimson, Putnam & Roberts (now Pillsbury Winthrop) in New York; and Akin Gump Strauss Hauer & Feld in Washington, D.C. At each stop, he got the rare privilege as a young lawyer to travel the world (including many trips to India) putting together power projects. In 1999, only seven years after graduating from law school, Bose made partner at Akin Gump.

Things were good, but Bose had higher aspirations: He wanted to be an architect of deals, not just their technical scrivener. Last year, Bose was offered the chance to fulfill that dream when GFS Group, a project-finance consulting firm, asked him to serve as its president. GFS advises Indian companies on how to structure projects so that they are bankable. It then helps clients secure financing. Bose was excited by the opportunity but wasn't ready to abandon his legal career altogether. He proposed an arrangement in which he would work part-time as a lawyer at Akin Gump and part-time as president of GFS. The plan fell through when he and the firm couldn't agree on how to structure the relationship, says Bose.

That is when Reed Smith entered the picture. In October of 2003, the firm approached Bose about joining its project team. Bose said that he would consider it if the firm bought into his GFS vision. Reed Smith was receptive, according to Michael Pollack, a securities partner and director of strategic planning at the firm. GFS had a solid roster of Indian clients, he says, and the firm was impressed with Bose. "It was not that tough a sale," says Pollack.

By March of this year, Bose had moved to Reed Smith as a partner, and the firm had entered into a joint venture with GFS. Reed Smith now pays Bose a partnership salary, even though he spends about 80 percent of his time on GFS matters. Reed Smith also subsidizes much of Bose's travel to India when he is there on GFS business, and the firm allows him to claim as much as 25 percent of GFS' fees (Bose's share declines on larger deals). In return, Reed Smith receives 15 to 40 percent of GFS' fees, and a healthy supply of legal business.

Bose believes that GFS has enabled him to make deeper inroads into the Indian business community than he could as a mere lawyer. Many of GFS' clients, he says, are not used to working with American law firms and paying $500-per-hour legal rates. These clients, he adds, can more easily stomach GFS' success-based fees, which range from 0.6 to 2 percent of a deal's size. After GFS has broken the ice, Bose says that he can then help Indian companies better understand the need to hire top legal counsel. Most of GFS' clients, he adds, use Reed Smith for their legal needs. "It's like I'm building a captive [legal] client base," says Bose.
GFS also gives Bose cover to do deals in India without having to worry about its sticky foreign-lawyer rules. In its engagement agreements, Bose says, GFS spells out that it is not acting as legal counsel. Still, what constitutes lawyering can get fuzzy. GFS, for example, drafts financing plans and term sheets -- a task usually done by bankers but sometimes taken on by lawyers. If Bose were strictly an attorney working on such matters in India, he would run afoul of the Advocates Act. "GFS clients treat me like a banker," he says.

In late August, Bose-the-banker held sway in India. He had arrived in Mumbai, the sprawling financial capital of India, on Sunday, Aug. 22. It was the heart of monsoon season, when the skies routinely open up in the afternoon for an hour's long pounding of rain. Bose was ensconced at his normal haunt -- the luxurious Taj Mahal Palace & Tower Hotel, located next to the city's famous arched landmark, the Gateway to India. The hotel is arguably the city's premier address, both for social and professional networking. On this Sunday, the lobby was crawling with the usual throng of international business travelers as well as a more seasonal procession of Middle Eastern families, who vacation there during the monsoons for the novelty of seeing downpours.

Bose jumped right into the fray. After freshening up, he donned a navy sport coat and cream-colored slacks and retreated to The Chambers, a private club on the second floor of the hotel. He was there to meet the patriarch of a family conglomerate that is involved in agriculture, manufacturing, biotech, and other pursuits. Indian industry is dominated by family-run enterprises that often span a dizzying array of product lines. The club was empty save for the Bose table, which attracted considerable fawning from the tuxedoed waiters.

The agriculturist, who asked to remain anonymous (as did most of GFS' clients), has hired GFS to help him secure financing from an overseas lender. He is embarking on an expansion plan and hopes to vault from a top-ten position in his market niche to the top five. Indian companies are eager to tap foreign lenders, because they generally offer more favorable interest rates than Indian banks. Foreign lenders, meanwhile, are increasingly comfortable doing business with Indian companies. This has created a healthy source of business for Western law firms, and GFS as well.

Tonight, Bose talked shop for a brief spell. He said that foreign private equity investors were interested in funding the expansion plan, but that they would demand that first the client take the company private. The client said he should not have any trouble convincing most of the company's shareholders to sell back their stock. In short order, the conversation turned casual, perhaps consciously so; Bose's theory is that business in India must begin with a heavy dose of informal relationship-building.

The following day, Bose met at length with the client to hammer out the details of the financing. He followed that deal with an impromptu Tuesday breakfast meeting with the head of Chambal Power Ltd., an Indian energy company. The executive had learned

Bose was in town, and he wanted to discuss a renewable energy project the company was considering. What was supposed to be a short meeting lasted for hours and resulted in Chambal offering GFS an advisory role on the project. Later that day, Bose met with the head of a large steel company that had hired GFS to arrange foreign financing. That piece of business, in turn, begot another unplanned meeting with the CEO of a large Indian bank, who was one of the minority lenders on the steel financing. The CEO wanted to see if GFS could work with the bank on future matters.

"Every trip to India is like this," Bose said later that night. "You come here for two or three meetings, and then it explodes from there." He was slumped in a deck chair in an outdoor cafééé at the Taj Mahal hotel. Seated next to him was Sreejit Tagore, who heads up GFS in India. Like Bose, Tagore comes from a prominent family; his great-uncle, Rabindranath Tagore, was a Nobel-laureate poet and playwright. Tagore is small and bespectacled, with the earnest, proper manner of a college professor, an image offset, slightly, by his devotion to a wireless gadget that bleated out a steady stream of calls and e-mails. The gadget was now at rest, and Tagore spoke quietly about Mumbai real estate with a local employee of New York real estate giant Cushman & Wakefield Inc. GFS is working with Cushman on various Indian real estate ventures.

As is typical in monsoon season, the palm trees surrounding the hotel pool rustled in the cool night wind. Normally, Bose looks younger than 40 and exudes a youthful, carefree exuberance -- a product, perhaps, of the fact that he is not married, has no children, and spends much of his life five-star-hotel-hopping across the globe. His vaguely Continental accent and pastimes -- jazz, collecting art, vacationing at his parents' house in the south of France -- further solidify his membership in the jet set.

At the moment, though, Bose looked like he wanted nothing more than the comforts of home. He said that he felt nauseous and exhausted. (Before arriving in India he had been to London and Sri Lanka on business.) Bose was due to fly to Bangalore the next day to meet with a real estate developer but worried that he was coming down with something. He admitted that he was never careful enough about what he ate and drank in India, nor did he ever bother to get the vaccinations that are recommended for foreign travelers. "I don't have the time," he said. By the next morning, he was feverish and bedridden. Later that evening, he hit bad traffic on the way to the airport and missed his flight to Bangalore, the last one scheduled that day.

Most foreign dealmakers with business in India are familiar with Bangalore. Until recently, it was known mainly as a college town and retirement community whose key attractions were a moderate climate and relative lack of pollution. But thanks to a bountiful supply of college graduates, a modest wage scale, and generous tax breaks, Bangalore has come to be, arguably, the world's outsourcing capital. This development has fueled a real estate boom, and Bose was in town hoping to capitalize on it.

After landing at the airport on Thursday, Aug. 26, he stopped at his hotel for a short rest. He had started a cycle of antibiotics, but he had a 102-degree fever and felt lousy. By noon, he had roused himself from his bed and set out to visit a 100-acre plot of land about 15 miles outside of town. The land is owned by an Indian doctor, who runs nursing homes across the country but is looking to diversify with a country club/resort development in Bangalore.

As Bose approached the site, his mood improved. With its lush vegetation, deep gorges, and views of the surrounding Nandi foothills, the property reminded Bose of his beloved Provence. It was a perfect setting for development, Bose thought, especially considering that the new Bangalore airport was due to be built only about five miles away.

Unfortunately, after a short driving tour of the land, the doctor wanted to press on. He owned another 100-acre plot, closer to the hills, which he felt might be a more suitable location for his project. Bose was certain the present spot was ideal. Plus, he felt like he might collapse. Discreetly, Bose asked his colleague Tagore whether they could cut out. Not a chance, Tagore said. Indian hospitality demanded that they visit the second site. So, Bose, Tagore, and a New Delhi-based Cushman & Wakefield employee, who was preparing a market report on the development, jumped into a Tata Safari SUV and followed the doctor up a steep and bumpy dirt road -- what Indians call a kacha.

At the second property, Bose gamely followed the doctor on foot for a few minutes before retreating to a tent that had been set up on the land. When the rest of the group arrived at the tent 30 minutes later, Bose was sprawled out on the ground in his blazer and khakis. His temperature had spiked again, and he was trying to rest. The doctor looked at him like he was insane. Fortunately, though, being a doctor, he happened to have some medicine handy. He gave Bose a dose of erythromycin and paracetamol, which seemed to temporarily revive the ailing Bose.
The next day, Bose sat in the lobby of Le Meridien Hotel in Bangalore, looking vastly improved. He was excited about the Bangalore real estate venture. "This could be a very high-end country club," he said. There was a possibility, he added, that GFS would later become a part owner of the property. He said his hope was that GFS would start investing in more projects and evolve into a private equity firm. "A smaller version of The Carlyle Group," he proposed.

Bose also took stock of his current India trip. He expected that the deals he had worked on during the week would generate more than $2 million in fees for GFS and spin off about $1 million in legal work for Reed Smith. The trip had also opened up some promising future opportunities, Bose said. The Cushman representative, who had visited the Bangalore property, proposed teaming up with GFS on future real estate projects: "high-tech parks, resort properties, integrated commercial/residential townships," said Bose. As he clicked off his current deal flow and future aspirations, Bose radiated a master-of-the-universe smugness. He admitted that he felt like he had finally arrived as a real dealmaker. "Other than the fact that I get sick sometimes," he said, "this is my dream."

On the following day, a Saturday, Bose was back to being a lawyer, at least for a brief spell. He flew out of Bangalore at 7:30 a.m., arriving in New Delhi about two-and-a-half hours later. He took a taxi to the Hyatt to meet the CFO of Petronet LNG Ltd., one of India's largest energy companies. Petronet was about to embark on some liquefied natural gas developments in India, and it was searching for project finance lawyers. Bose had scored the meeting through a banker he met on a GFS deal. The CFO was unfamiliar with Reed Smith, but Bose left the hour-long meeting feeling that he had done a good job selling the firm. (This sort of networking is not prohibited by the Advocates Act.) If Reed Smith landed the assignment, Bose predicted, it could easily pocket $5 million in legal fees. (At press time Petronet had not yet chosen its project counsel.)

After the business pitch, Bose got back into the GFS Mercedes and headed to the Golden Greens resort. He arrived at about 3 p.m. The temperature was still in the high nineties, and the golf course was practically empty. After grabbing a sandwich at the clubhouse overlooking the eighteenth green, Bose climbed into the passenger side of a golf cart, and a Golden Greens sales agent gave him a tour of the course. It was in immaculate condition, with undulating fairways and greens that looked like they were maintained with tweezers. Rail-thin men wearing turbans stood on most of the greens, spraying mists of water in alternating directions. Easily the most incredible feature of the course was its utter stillness: no motorcycle engines or car horns, no exhaust, beggars, or roving farm animals. The cacophony of India had been put on hold.

Still, Bose was not satisfied. The developer had proposed putting all of the resort's homes in a rectangular block, far removed from the fairways. When Bose arrived back at the clubhouse, he told his colleague Tagore that the home buyers would want more privacy and would also want to be nearer to the course. And foreign financiers, he continued, would be far more comfortable backing the development if it was closer in layout to top developments in the West.

On the drive back to New Delhi, daylight was starting to fade. Gurgaon's malls and restaurants seemed even more congested than on the drive out. In concept, Gurgaon is akin to Tyson's Corner, Va., or some other modern suburban community. But, at the moment, it more closely evoked Las Vegas: a sparkling, audacious development that had sprouted, seemingly, overnight, in the middle of nowhere. Bose glanced at the newly constructed skyline, looming over his right shoulder. "It's like watching a Third World country become developed before our very eyes," he said.

Later that night, Bose flew back to Mumbai and then on to London to meet with bankers. In mid-September, after a month's absence, he returned home to D.C. Back in his office, he said he was thrilled to finally get a chance to pay bills and catch up on paperwork. And to visit some doctors. Bose was still trying to get to the bottom of the lingering cough and chest congestion that had taken root in India. "I hope to have three weeks here in which I don't travel," he said. "I need to deal with my health."

INDIA'S ECONOMIC ENGINE	
Population	1.1 billion
Workforce	400 million
GDP	$603 billion
Largest industry	Services (51 percent of GDP)
Labor force	Agriculture 60%; industry 17%; services 23%
Education	2 million college graduates a year
ANNUAL exports	$15 billion in technology and software

So-Called Boom

By Paul Krugman
Op-Ed Columnist
New York Times
December 30, 2003

It was a merry Christmas for Sharper Image and Neiman Marcus, which reported big sales increases over last year's holiday season. It was considerably less cheery at Wal-Mart and other low-priced chains. We don't know the final sales figures yet, but it's clear that high-end stores did very well, while stores catering to middle- and low-income families achieved only modest gains.

Based on these reports, you may be tempted to speculate that the economic recovery is an exclusive party, and most people weren't invited. You'd be right.

Commerce Department figures reveal a startling disconnect between overall economic growth, which has been impressive since last spring, and the incomes of a great majority of Americans. In the third quarter of 2003, as everyone knows, real G.D.P. rose at an annual rate of 8.2 percent. But wage and salary income, adjusted for inflation, rose at an annual rate of only 0.8 percent. More recent data don't change the picture: in the six months that ended in November, income from wages rose only 0.65 percent after inflation.

Why aren't workers sharing in the so-called boom? Start with jobs.

Payroll employment began rising in August, but the pace of job growth remains modest, averaging less than 90,000 per month. That's well short of the 225,000 jobs added per month during the Clinton years; it's even below the roughly 150,000 jobs needed to keep up with a growing working-age population.

But if the number of jobs isn't rising much, aren't workers at least earning more? You may have thought so. After all, companies have been able to increase output without hiring more workers, thanks to the rapidly rising output per worker. (Yes, that's a tautology.) Historically, higher productivity has translated into rising wages. But not this time: thanks to a weak labor market, employers have felt no pressure to share productivity gains. Calculations by the Economic Policy Institute show real wages for most workers flat or falling even as the economy expands.

An aside: how weak is the labor market? The measured unemployment rate of 5.9 percent isn't that high by historical standards, but there's something funny about that number. An unusually large number of people have given up looking for work, so they are no longer counted as unemployed, and many of those who say they have jobs seem to be only marginally employed. Such measures as the length of time it takes laid-off workers to get new jobs continue to indicate the worst job market in 20 years.

So if jobs are scarce and wages are flat, who's benefiting from the economy's expansion? The direct gains are going largely to corporate profits, which rose at an annual rate of more than 40 percent in the third quarter. Indirectly, that means that gains are going to stockholders, who are the ultimate owners of corporate profits. (That is, if the gains don't go to self-dealing executives, but let's save that topic for another day.)

Well, so what? Aren't we well on our way toward becoming what the administration and its reliable defenders call an "ownership society," in which everyone shares in stock market gains? Um, no. It's true that slightly more than half of American families participate in the stock market, either directly or through investment accounts. But most families own at most a few thousand dollars' worth of stocks.

A good indicator of the share of increased profits that goes to different income groups is the Congressional Budget Office's estimate of the share of the corporate profits tax that falls, indirectly, on those groups. According to the most recent estimate, only 8 percent of corporate taxes were paid by the poorest 60 percent of families, while 67 percent were paid by the richest 5 percent, and 49 percent by the richest 1 percent. ("Class warfare!" the right shouts.) So a recovery that boosts profits but not wages delivers the bulk of its benefits to a small, affluent minority.

The bottom line, then, is that for most Americans, current economic growth is a form of reality TV, something interesting that is, however, happening to other people. This may change if serious job creation ever kicks in, but it hasn't so far.

The big question is whether a recovery that does so little for most Americans can really be sustained. Can an economy thrive on sales of luxury goods alone? We may soon find out.

Jobless Count Skips Millions

The Rate Hits 9.7% When the Underemployed And Those Who Have Given Up The Hunt Are Added.

By David Streitfeld
The Los Angeles Times
Monday 29 December 2003

SAN FRANCISCO — Lisa Gluskin has had a tough three years. She works almost as hard as she did during the dot-com boom, for about 20% of the income.

When Gluskin's writing and editing business cratered in 2001, she slashed her rates, began studying for a graduate degree and started teaching part time at a Lake Tahoe community college for a meager wage.

It's been a fragmented, hand-to-mouth life, one that she sees mirrored by friends and colleagues who are waiting tables or delivering packages. In the late '90s, the 35-year-old Gluskin says, "we had careers. We had trajectories. Now we have complicated lives. We're not unemployed, but we're underemployed."

The nation's official jobless rate is 5.9%, a relatively benign level by historical standards. But economists say that figure paints only a partial — and artificially rosy — picture of the labor market.

To begin with, there are the 8.7 million unemployed, defined as those without a job who are actively looking for work. But lurking behind that group are 4.9 million part-time workers such as Gluskin who say they would rather be working full time — the highest number in a decade.

There are also the 1.5 million people who want a job but didn't look for one in the last month. Nearly a third of this group say they stopped the search because they were too depressed about the prospect of finding anything. Officially termed "discouraged," their number has surged 20% in a year.

Add these three groups together and the jobless total for the U.S. hits 9.7%, up from 9.4% a year ago.

No wonder the Democratic presidential candidates have seized on jobs as a potentially powerful weapon.

Howard Dean criticized President Bush for "the worst job creation record in over 60 years." Richard Gephardt said that "I have three goals for my presidency: jobs, jobs, jobs." John Kerry said "the first thing" he'd do as president would be to fight his "heart out" to bring back the jobs that have disappeared in recent years.

Bush, meanwhile, is quick to seize credit where he can. When the unemployment rate for November fell one-tenth of a point, he went out immediately to give a speech at a Home Depot in Maryland.

"More workers are going to work, over 380,000 have joined the workforce in the last couple of months," Bush said. "We've overcome a lot."

A number of economists say it's a mistake to evaluate the job market solely by talking about the official unemployment rate. It's a blunt instrument for assessing a condition that is growing ever more vague.

"There's certainly an arbitrariness to the official rate," says Princeton University economics professor Alan Krueger. "It irks me that it's not put in proper perspective."

On Jan. 9, when the rate for December is announced, both Republicans and Democrats will assuredly again maneuver for advantage — precisely because the number isn't expected to change much.

"At this point, where we don't know which way it's going but it isn't likely to be going far, both sides will try to use it," says Michael Lewis-Beck, a political scientist at the University of Iowa.

In every election since 1960, the party in the White House lost when the unemployment rate deteriorated during the first half of the year. If the rate improved, the party in the White House won.

That's not a coincidence, says Lewis-Beck, who has edited several volumes on how economic conditions determine elections. "People see the president as the chief executive of the economy," he says. "They punish him if things are deteriorating and reward him if things are improving."

By any normal standard, things should have been improving on the employment front long before this point. More than 2 million jobs have been lost in the last three years, a period that encompassed a brief, nasty recession and a recovery that was anemic until recently. Even in the best-case scenario, Bush will end this term with a net job loss. That hasn't happened to a president since Herbert Hoover at the beginning of the Depression.

Many economists are mystified about why a suddenly booming economy is producing so few jobs.

"We're all sitting there and saying, 'When are they going to return?' " says Richard B. Freeman, director of the labor studies program at the National Bureau of Economic Research. "It's looking a little better, but we don't understand why it isn't looking a lot better. Why shouldn't Bush be sitting there saying, 'Man, I'm sitting pretty. This is a great boom'?"

One statistic proving particularly perplexing is the percentage of the adult population that is employed. This number rises during good times, as people are lured into the workforce, and falls during recessions as companies falter.

True to form, the percentage of adult Americans with jobs dropped from a high of 64.8% in April 2000, just as the stock market was cresting, to 62% in September — the lowest level in a decade. If past recessions are any guide, those 5 million people who found themselves jobless should have driven the unemployment rate up to about 8%.

Instead, the rate never went much above 6%.

"More than half of the additional people who would have reported themselves as unemployed in a previous big recessionary period … aren't," a puzzled UC Berkeley economist, Brad DeLong, wrote on his website. "They're reporting themselves as out of the labor force instead."

"Out of the labor force" means you're not working for even one hour a week and don't want to, either. It's the traditional category for students, married women with young children, flush retirees and idle millionaires.

A new way that people seem to be joining this category is by getting themselves declared disabled. This designation makes them eligible for government payments while removing them from the unemployment rolls.

From 1983 to 2000, economists David Autor and Mark Duggan wrote in a recent study, the number of non-elderly adults receiving government disability payments doubled from 3.8 million to 7.7 million.

The scholars present a case that the sharp increase isn't because the workplace suddenly became more dangerous. Instead, it has been prompted by liberalized screening policies, which make it possible to claim disabled status for, say, several small impairments as opposed to one big injury. Government examinations also have been downplayed in favor of the disabled's own medical records and the pain he or she claims to be experiencing.

At the same time, benefits have been sweetened. As a result, millions of individuals who lost jobs now have an attractive — and permanent — alternative to searching for work.

Autor and Duggan concluded that if disability payments weren't so appealing, many more people would be unemployed, boosting the jobless rate two-thirds of a point.

Another way in which people forgo an appearance on the unemployment rolls is if they decide to go into business for themselves. There are 9.6 million people who say they are self-employed full time, a number that rose 118,000 last month. Without the recent increase in self-employed, the jobless number would look much worse.

Many others may be working for themselves part time, temporarily, as a way to get food on the table in the absence of better options.

Take Steve Fahringer, who until recently was working for a Bay Area marketing agency that cut 20% of its employees and trimmed the wages of the remainder by 20%. Fahringer didn't particularly like his job. Because the recession supposedly was history, he thought he could find a new position. The 34-year-old didn't think it would be easy, but he thought it possible. So he quit.

"I left July 1," he says. "I haven't found a new job yet."

It's a common problem. The segment of the labor force that has been jobless for more than 15 weeks has risen nearly 150% since 2000. The current level is the highest since the recession of the early 1990s. Nearly one-quarter of the jobless have been unemployed for longer than six months.

In Fahringer's case, he spent some time aggressively looking for a job, which made him part of the official July unemployment rate of 6.2%. Then he stopped looking, which meant that he was one small reason the rate started going down.

Instead of unemployed, Fahringer was classified as "discouraged." A little more than 8% of the people who want a job in the Bay Area are estimated by the Bureau of Labor Statistics to be discouraged, slightly higher than Los Angeles/Long Beach but lower than the battered technology center of San Jose.

Discouraged workers have never been included in unemployment rates, although they came close the last time a commission met to reform the system, a quarter of a century ago. "It was a very hot issue," remembers Glen Cain, a retired economist who was a commission member. He says the conservatives on the panel, who felt that anyone who really wanted a job should be out there hustling no matter what, prevailed.

Fahringer found an alternative way to earn a bit of money. He did some acrylic paintings, which he sold for a total of $1,000. He calls himself "a hobbyist," which means for a while he moved out of the labor force entirely.

Now he's a temp, assigned by his agency to a nonprofit office. For the first time in six months, he's working 40 hours a week. By the government's accounting, he has once again joined the ranks of the employed. But from the standpoint of his wallet, Fahringer is worse off: He's earning less money, with no paid holidays, no sick leave, no pension plan, no health insurance, no future.

The Economic Policy Institute, a liberal-leaning Washington think tank, says Fahringer's situation is in many ways typical. The industries that were expanding in the late '90s, including computer and professional services, paid well.

Those industries are in retreat. So is manufacturing, a traditional source of high wages. On the rise, meanwhile, are lower-paying service jobs.

During the boom, it was easy to trade up. Now it's just as easy to trade down.

Fahringer's solution: Opt out.

"I'm thinking of going back to school," he says. "I'd take out a loan." That would put him out of the labor force again.

In some eyes, a nation of burger flippers, temps and Wal-Mart clerks isn't the worst scenario for the economy. The worst is that companies continue to eliminate jobs faster than they create them, setting up a game of musical chairs for the labor force.

That prospect alarms Erica Groshen, an economist with the Federal Reserve Bank of New York. "If you plot job losses versus gains on a chart, it's shocking," she says.

Losses are running at about the same rate they were in 1997 and 1998, two good years for the economy. But job creation in the first quarter of 2003 — the most recent period available — was only 7.4 million, the lowest since 1993.

"If this goes on too long, you'd have to worry there's something fundamentally wrong," Groshen says. Although the economy has picked up since March, "so far I haven't seen anything that suggests job creation is picking up."

That bodes poorly for Ian Golder. His last full-time job was with a start-up publication that wrote about venture capital.

Two years ago, Golder was laid off. It was the first time since he graduated from UC Berkeley 14 years earlier that he didn't have steady work.

Golder looked for a while, gave up for a while, then landed a contracting gig with no benefits proofreading for a chip maker. When that ran out, he worked 20 hours a month on a financial services newsletter.

His wife, Heather, a recent graduate in English from UC Davis, also was without a job. They thought about selling their house in Sacramento and moving, but prospects didn't look any better anywhere else. To make ends meet, they took in two boarders.

At the beginning of December, things seemed to improve a bit. Golder got a job in the document-control department of a medical devices company. The department, he was told, used to have 20 full-time people. Now it has five, plus four temps.

The job will last two months. After that, who knows?

"Optimists say things will be better then," Golder says. "But a full-time position with benefits seems pretty remote."

Bracing for the Blow

By Bob Herbert
New York Times - Editorial
December 26, 2003

I.B.M. has sent a holiday chill through its American employees with its plans to ship thousands of high-paying white-collar jobs overseas to lower-paid foreign workers.

"People are upset and angry," said Arnie Marchetti, a 37-year-old computer technician at I.B.M.'s Southbury, Conn., office whose wife gave birth to their first child in August.

The company has not made any announcements, and the employees do not know who will be affected, or when. The uncertainty about whose jobs may be sent to India or China, the two main countries in the current plans, has raised workers' anxiety in some cases to an excruciating level.

"I understand that this is a lightning rod issue in the industry," an I.B.M. spokesman told me this week. "It's a lightning rod issue to people in our company, I suppose. But I don't think anybody expects us to issue blanket statements to the work force about projections."

Referring to employees who may be affected by the plans, he said, "We deal with them as they need to know."

"Offshoring" and "outsourcing" are two of the favored euphemisms for shipping work overseas. I.B.M. prefers the term "global sourcing." Whatever you call it, the expansion of this practice from manufacturing to the higher-paying technical and white-collar levels is the latest big threat to employment in the U.S.

Years ago, when concern was being expressed about the shipment of factory jobs to places with slave wages, hideous working conditions and even prison labor, proponents said there was nothing to worry about. Exporting labor-intensive jobs would make U.S. companies more competitive, leading to increased growth and employment, and higher living standards. They advised U.S. workers to adjust, to become better educated and skillful enough to thrive in a new world of employment, where technology and the ability to process information were crucial components.

Well, the workers whose jobs are now threatened at I.B.M. and similar companies across the U.S. are well educated and absolute whizzes at processing information. But they are nevertheless in danger of following the well-trodden path of their factory brethren to lower-wage work, or the unemployment line.

The Wall Street Journal reported last week that I.B.M. had told its managers to plan on moving as many as 4,730 jobs from the U.S. The I.B.M. spokesman told me he was sure that figure was too high, but added that no one had complained to The Journal about the number. He said he didn't know how many American jobs would be lost.

I.B.M. officials are skittish to the point of paranoia on this matter, which has powerful social and political implications. Pulling the plug on factory workers is one thing. A frontal assault on the livelihood of solidly middle-class Americans — some of whom may be required to train the foreign workers who will replace them — is something else.

James Sciales was the first of the company spokesmen to respond to my inquiries this week. He was reluctant to even tell me his name and nervously refused to answer any questions. Another spokesman was willing to talk but asked that I not refer to him by name.

In a recorded conference call reported by The Times last summer, a pair of I.B.M. officials told colleagues around the world that the company needed to accelerate its efforts to move white-collar jobs overseas. They acknowledged the danger of a political backlash, but said it was essential to step up the practice.

"Our competitors are doing it and we have to do it," said Tom Lynch, I.B.M.'s director for global employee relations.

The outsourcing of good jobs has been under way for years, and there is no dispute that the practice is speeding up. "Anything that is not nailed to the floor is being considered for outsourcing," said Thea Lee, the chief international economist for the A.F.L.-C.I.O.

Most of the millions of white-collar workers who could be affected by this phenomenon over the next several years are clueless as to what they can do about it. They do not have organized representation in the workplace. And government policies overwhelmingly favor the corporations. Like the employees at I.B.M. whose holiday cheer has been dampened by uncertainty, these hard-working men and women and their families have little protection against the powerful forces of the global economy.

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