



Article

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GLOBAL CAPABILITY CENTRES IN INDIA

India, with its massive population, a fairly high literacy rate and a legacy that has made English a widely spoken and understood language, along with familiarity with the common law system, has become an attractive destination for outsourcing and offshoring of legal operations.

Before GCCs

The shift of such operations to India by multinational companies (“**MNCs**”) began in the late 1980s, when American Express consolidated its Japan and Asia Pacific back-office operations in Gurgaon, Haryana. Over time, MNCs expanded into knowledge process outsourcing, delegating tasks that require skill, expertise, and judgment. Legal process outsourcing (“**LPO**”) is a subset of knowledge process outsourcing, encompassing the delegation of routine legal tasks to external service providers or the establishment of dedicated entities within India.

MNCs have, in the past, used the LPO structure by hiring Indian-qualified lawyers directly or outsourcing work to external service providers. These approaches had trade-offs in terms of control and flexibility. These models have been further adapted with the advent of global capability centres (“**GCC**”) in that legal functions are now being increasingly handled by GCCs. Traditionally, GCCs were established to provide certain technical functions exclusively to the MNC that set it up, such as Texas Instruments had established in the 1980s to support its R&D and engineering functions.

From then, GCCs have of course, evolved and now often host other functions, such as finance, accounting, HR and now legal.

Some core concerns while setting up GCCs are as follows:

A) Legal structure for the GCC:

When a MNC decides to transfer some of its functions to a GCC, one of the first steps is to determine the appropriate legal structure for the GCC. Depending on various factors, such as functions to be taken over, regions being serviced by these functions and industry, a GCC can be established using any of several different legal structures in India:

- **A private company** provides a separate legal entity with limited liability and operational flexibility but requires higher statutory compliance under the Companies Act, 2013.
- **A limited liability partnership** offers simpler compliance under the Limited Liability Partnership Act, 2008, but transparency and governance may become concerns.
- While the Foreign Exchange Management (**Establishment in India of a branch office or a liaison office or a project office** or any other place of business) Regulations, 2016, allows for the establishment of a branch or liaison office subject to approval from the Reserve Bank of India, branch or liaison offices are not separate legal entities and can undertake limited activities and are usually not suitable/used for GCC formation.

B) Foreign Investment:

Another concern for many MNCs is that foreign investment is regulated in several jurisdictions, and this could waylay any plans to set up a suitable entity in the desired jurisdiction. In India, while foreign investment in several sectors is regulated and, in some cases, even restricted, most sectors which form the core operations for GCCs, including information technology and information technology enabled services, research and development, are eligible for automatic foreign direct investment up to 100% under the extant exchange control laws.

C) Human Resources:

Another significant concern in setting up a GCC is, of course, regulatory framework pertaining to human resources, as GCCs, by their nature, are man-power heavy. Given the erstwhile fragmented labour regime in India, this was a significant concern for many entities looking to set up GCCs in India. However, with the consolidation of these regulations into four labour codes, namely, the Code on Wages, Industrial Relations Code, Code on Social Security and Occupational Safety, Health and Working Conditions Code, it is anticipated that this concern, will no longer remain.

D) Tax

Depending on the structure chosen for GCC formation and mode of operations between the GCC and its group companies, transfer pricing rules may be a concern, though the 2026 budget may alleviate some of these concerns.

E) Data Protection

With the Digital Personal Data Protection Act, 2023 being brought into force, while sanctity of data and confidentiality of personal information may not be as concerning, the compliance requirements definitely increase, particularly where GCCs handle a significant amount of customer data.

F) GCC specific Regulations

At present, the regulations in place for GCCs are the International Financial Services Centres Authority (Global In-House Centres) Regulations, 2025, which are applicable only to entities that provide global in-house services to groups engaged primarily in

providing financial services, where such entities are located in an International Financial Services Centre.

G) Location

While talent pool availability and cost of real estate are two of the prevalent considerations when determining where to set up a GCC, several states, including Maharashtra, are in the process of coming up with policies to make the set up of GCCs more attractive, lucrative and efficient and this may result in other cities/areas becoming more sought after for GCC set up.

What legal support can GCCs provide?

Considering the legislative background in India, and the fact that it emanates from a common law system, legal teams in GCCs in India would easily be able to provide a wide range of services, including,

- Contract support, which involves drafting, reviewing, and managing contracts as well as developing templates.
- Legal research and compliance services cover regulatory tracking, litigation support, and non-legal research.
- Intellectual property support, which includes patent filings, prior art searches, clearance and litigation research, patent drawings, proofreading, docketing, annuities, trademark maintenance, claim charts, and sequencing lists.
- HR policy management
- Accountancy and payroll

Establishing a GCC is establishing a whole business in India and all aspects of Indian law applicable to Indian entities need to be adhered to, whether they be complying with Indian tax, labour or other relevant laws. With the new labour codes and the Digital Personal Data Protection Act, 2023 coming into force recently, anyone wanting to establish a GCC needs to understand the impact on set ups, and existing GCCs need to gear up to ensure compliance.

More importantly, while talent in India is abundant to support GCC functions, legal operations in GCCs must be efficiently structured to avoid time delays and have real time access to changes in legislation and industry practices, not only in India but in other jurisdictions the GCC is servicing. All this requires external legal help from trusted legal practitioners not only in India, but also in other relevant jurisdictions. A knowledgeable legal partner can help structure the legal functions in the GCC in a cost and time efficient manner from the get-go.

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