Policy Brief

PAK-19158 | June 2020

International Growth Centre

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Improving public services

A case study of two not-for-profit companies in Punjab

In brief:

- Over the past decade, the Government of Punjab set up a number of government-owned public companies under Section 42 of the Companies Act 2017 to deliver specific public services such as waste management, public transport, infrastructure development, and skills training with the legal and financial autonomy necessary for efficiency and transparency.
- The experience with these companies has been mixed at best. Judicial and media scrutiny into allegations of corruption and waste have raised questions about the performance and accountability of the companies and their future.
- Our analysis shows that the public sector can gain significantly from the type of statutory and operational flexibility afforded by the Section 42 status. One of the most significant advantages of the Section 42 model is the ability to separate policy formulation, implementation, and monitoring, allowing the companies to achieve operational efficiency that would otherwise have been difficult in the traditional departmental setup.
- Sustaining the Section 42 model can be beneficial for improving public services in Punjab, albeit with requisite reforms and strategic guidance put into place. The key reforms include governmental commitment to company board autonomy and effectiveness; clear regulations for administrative management; and, lastly, exploring the possibility of creating an apex monitoring body that can ensure transparency of work and adherence to corporate best practices.

This project was funded by IGC Pakistan.

Introduction

The 18th Amendment and the 7th National Finance Commission (NFC) in 2010 increased the share of provinces in the federal divisible revenue pool. The objective was to enable provincial governments to respond to the growing need for provincially provided services (education, health, sanitation, drinking water, policing etc.) by a rapidly urbanizing population. Public sector capacity in terms of human resources, regulatory framework, monitoring and accounting systems to deliver complex skills, however, did not keep up with the resources – and the culture of political rent capture was not restrained.

In the last decade, the Government of Punjab launched several companies to extend public capacity via "corporatization" i.e., 'government ownership models that grant legal and financial autonomy to public enterprises that operate with some independence from the state' (McDonald 2014). From 2010 onwards, a number of public sector companies were set up under Section 42 of the Companies Act 2017 for improving service delivery in the province. Between 2007 and 2018, approximately 55 public sector companies were set up which included the Lahore Waste Management Company, Lahore Parking Company, Lahore Transport Company, Punjab Skills Development Fund, Punjab Population Innovation Fund, Punjab Health Initiatives Management Company and others.

What is the Section 42 Company model?

Under the Section 42 'model', the goal was to increase efficiency and capacity through the induction and adoption of private-sector technocratic and managerial talent and techniques, focus on outcomes rather than procedures, and separate policymaking and implementation functions. At the same time, the creation of specially designed and focused vehicles for innovation and implementation would also provide a cost advantage due to reduced liabilities and flexible human resource management. Collectively these priorities were deemed to be only possible through the creation of new governance vehicles, as the entrenchment, inertia, and framework of the existing system did not lend itself easily to reform.

The companies were set up with a clear set of rules and principles – such as transparency, accountability, and integrity – as well as clear risk management and control mechanisms. Moreover, while ownership of the companies rested with various departments, they operated in all other respects like private companies. This allowed the companies to lengthy rules and procedures for project design and approval. In theory, all a company would need was a project proposal, vetted and endorsed by an independent board of directors, and approved directly by the Chief Minister. A key advantage of the new model over existing service delivery practices was the ability to recruit the best talent available in the country directly, while benefitting from civil society partnerships at the top levels of management. By delivering public services in a different mode, the public sector would be able to create efficient management structures and incentivize performance by using successful private sector and non-governmental organisation models for service delivery.

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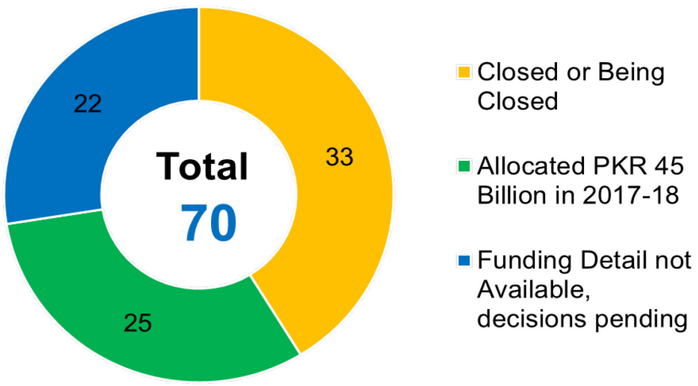
Figure 1: Current status of Section 42 companies in Punjab



Controversy and judicial scrutiny

Since its inception, Pakistan's experience with the Section 42 model has been inconsistent at best. Some companies, are alleged to have misspent huge volumes of public finds – allegedly Rs 4 billion by the Punjab Saaf Pani Company. In March 2018, the then Chief Justice of the Supreme Court of Pakistan took suo moto notice of the alleged gross corruption and irregularities in the awarding of contracts, procurement, hiring, and disbursement of salaries. Subsequently, the efficacy of the Section 42 model as a whole was questioned and there is a question mark on the future of all companies.

However, while allegations of gross corruption are yet to be proven, the ensuing media storm revealed a marked lack of facts. What was needed was clarity about which companies were performing well and why so that lessons could be learnt and applied to other companies. With that in mind, we present two case studies of successful companies that have lived up to their mandate and thus identify the requisites for success of the section 42 company model.

Evaluation criteria and rationale

The two case study companies are the Punjab Skills Development Fund (PSDF) and the Punjab Population Innovation Fund (PPIF), which have received wide-scale appreciation and continue to be supported by a range of stakeholders despite the uncertainty around their future.

What worked?

The analysis shows that the public sector gains significantly from the type of statutory and operational flexibility afforded by the Section 42 status. One of the most significant advantages of the Section 42 model is the ability to separate policy formulation, implementation, and monitoring, allowing the companies to achieve operational efficiency that would otherwise have been difficult in the traditional departmental setup. The ability to bypass bureaucratic red tape and recruit directly from the private sector in particular allows the companies to build capacity without incurring high costs of training. A review of PPIF and PSDF's program documents, interviews with company personnel, and scanning of the relevant literature provide insights into the factors that contributed to the companies' good performance and offers lessons for improving the governing architecture for broader service delivery in the province:

- **Proactive and independent Board:** The analysis suggests that an independent, proactive board, with directors who have the requisite skills, experience and commitment to the social goals of the company, is absolutely necessary for clear policy guidance and direction, as well as strong oversight of company operations.

- **Leveraging private sector talent:** The ability to draw in extensive, specialised, private sector human resources at competitive, market-based remuneration has ensured the placement of the right people with the right skills in key roles. Combined with corporatised human resource practices with defined roles and parameters, career progression and planning, and a rewarding work culture to incentivise performance, has ensured that the companies remain effective and productive and do not fall prey to the inefficiencies that plague the larger public sector.
- **Organisational flexibility:** The programmatic flexibility offered by the Section 42 structure allowed the companies to form partnerships with private sector and non-profit companies in a timely manner, and efficient control over disbursements and financial oversight allowed it to bypass lengthy procedures that usually afflict public-sector organisations.
- **Donor involvement:** PSDF has had extensive operational and financial oversight by DFID (now FCDO), which contributed 50% of the company's budget. Even though DFID's share in overall financial support decreased over time and Punjab government's increased, it retained oversight on financial controls, operational compliance, policy formation, audit requirements, and fiduciary responsibilities. DFID's extensive engagement with the government allowed PSDF to exercise considerable leverage to ensure operational and policy-related autonomy. PPIF board encourages the company the PSDF operational innovations and oversight to its needs.