

Improving Public Services

A Case Study of Two Section 42 (Not-For-Profit)
Companies in Punjab

About the project

Funded by: International
Growth Center (IGC),

Key counterpart: Punjab Skills
Development Fund, Punjab
Population Innovation und

Impact

The demand to look deeply into the models of the two selected companies came directly from Dr. Ishrat Hussain who heads the Prime Minister's Taskforce on Civil Service reform. This work will provide input in understanding the effectiveness of the section 42 not-for-profit companies model for improving service delivery.

This policy brief is based on a report "Leveraging Public Private Partnerships for Service Delivery: A Case Study of Section 42 (not-for-profit) Companies in Punjab" by Dr. Umair Javed (LUMS, CDPR) and Bakhtiar Iqbal (CDPR) and has been written by Bakhtiar Iqbal. Overall guidance was provided by Dr. Ijaz Nabi (IGC and CDPR).

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, skills training, and others 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.

Need for new 'model' of governance

The 18th Amendment and the 7th National Finance Commission (NFC) in 2010 ensured greater access to funds and resources for provincial governments. Simultaneously, an increasingly urban population placed greater demands on the public sector for service delivery. Public sector capacity, however, did not increase accordingly – either to take advantage of the increased resources or to respond to increasingly complex service delivery requirements – resulting in a breakdown of municipal services across various sectors. Simultaneously, the public sector suffered from a lack of funds, lack of a competent human resource pool, cumbersome regulations and business procedures, opaque recruitment practices, unclear monitoring, evaluation, and accountability mechanisms, as well as allegations of widespread political interference.

Consequently, over the past decade the Government of Punjab embarked on a journey of corporatization, i.e. "government ownership models that grant legal and financial autonomy to public enterprises that operate with some independence from the state".

From 2010 onwards, the Government of Punjab set up a number of public sector companies

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.

The general rationale for Section 42 companies was based on an evaluation of the existing system of department-driven administration and service-delivery challenges at the provincial level. With increased urbanization, sustained demographic pressure on existing infrastructure, and more sophisticated economic activity, a wide array of policy stakeholders agreed that the current model of subnational governance was not delivering. Crucially, service delivery-oriented departments also lacked the capacity for medium- and long-term planning. This meant there was either no accurate forecast of the scale of public investment necessary to improve development outcomes, or when public investment was scaled up, it did not produce desirable outcomes due to the underlying capacity constraints.

What is the '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

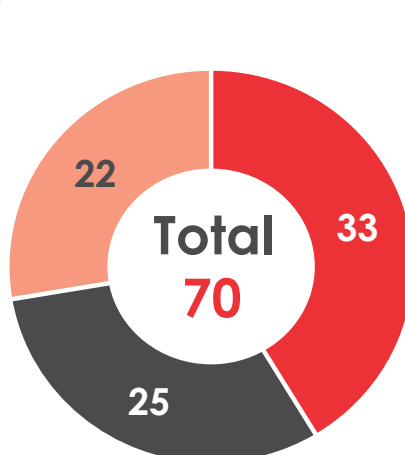
rested with various departments, they operated in all other respects like private sector companies. This allowed the companies to bypass such constraining factors as the Public Procurement Regulatory Authority as well as lengthy rules and procedures for project approval. In theory, all a company would 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 organization models for service delivery.

¹McDonald, D. A. (Ed.). (2014). Rethinking corporatization and public services in the global south. Zed Books Ltd.

Figure 1:

Current Status of Section 42 Companies in Punjab



Source: Planning and Development Department, Punjab

Controversy and Judicial Scrutiny

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

However, while allegations of gross corruption are yet to be proven, in the resultant media storm, there was a marked lack of facts about the entire situation. What was needed was clarity about which companies were performing well, and why they were performing well, so that lessons could be learnt and applied to other companies. In this project, we present two case studies of successful companies that have lived up to their mandate, in order to determine the fundamental prerequisites of success which will enable the government to learn from these organizations.

Evaluation Criteria and Rationale

The evaluation criteria for the two case studies selected operates at a two-tier level. Firstly, selected case studies are placed within the broader framework for governance and implementation that motivated the formation and proliferation of section 42 companies. Secondly, the companies' performance is summarized on the sectoral grounds under which they were established, i.e. the contributions made by the two case-study companies in their respective sectors.

In this study, two companies were selected for the purposes of diagnosing what contributed to their performance and whether they were able to leverage the overall advantages offered by the Section 42 company legal framework along the rationale listed above. The two companies are the Punjab Skills Development Fund (PSDF) and the Punjab Population Innovation Fund (PIPF), 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 review of the literature provide insights about what factors have contributed to the companies' performance over previous years, as well as a possible future course of action with regards to the governing architecture of service delivery in the province. It is also possible to determine that much of this success can be traced back to the organizational dynamics afforded by the Section 42 legal status.

Leveraging Private Sector Talent: The ability to draw in extensive, specialized, private sector human resource capacity at competitive, market-based remuneration has ensured the key roles of the right people with the right skills in the placement. Combined with corporatized human resource practices with defined roles and parameters, career progression and planning, and a rewarding work culture to incentivize performance, this has ensured that the

companies remain effective and productive and do not fall prey to their inefficiencies that plague the larger public sector.

Proactive and Independent Board: The analysis of PPIF and PSDF, two well-performing companies, suggests that the presence of independent, proactive board that is staffed with requisite experience of oversight is absolutely necessary for clear policy guidance and direction, as well as strong oversight of the company's operations.

Organizational Flexibility: The programmatic flexibility offered by the Section 42 structure allowed the companies to form partnerships with non-profit and other private-sector actors in a timely manner, and maintaining control over disbursements and financial oversight allowed it to bypass lengthy procedures that usually afflict public-sector organizations.

Donor Involvement: Unlike PPIF, however, PSDF still has extensive operational and financial oversight from DFID, due to the funding arrangement between the two. Even though DFID's share in overall financial support has decreased, with the Punjab government increasing its disbursement to PSDF, it still retains oversight on financial controls, operational compliance, policy formulation, audit requirements, and fiduciary responsibilities. DFID's extensive engagement with the government allows it to exercise considerable leverage to ensure operational and policy-related autonomy.

Future Trajectories from the Section 42 Experience

The continued uncertainty over the future of Section 42 companies also provides an opportunity to draw out key lessons and ensure that concerns over accountability, transparency, and sustainability are addressed, without compromising on the flexibility and efficiency gains that the companies provide. These lessons

include sustaining public-private partnerships, empowering company boards for accountability, transparent leadership criterion for companies, establishing synergistic administrative support, and setting up robust monitoring systems.