

Constitutional Reform and its Impact on TVET Governance in Nepal

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Abstract

This paper analyses the challenges of the constitutional reform in Nepal and its impact on the governance of technical and vocational education and training (TVET). Thereby, the paper suggests five crucial recommendations. First, establish an Inter-Governmental TVET Council/Coordination committee, a high-level body with representatives of all three government levels. Second, describe the key TVET processes in a Master Plan that allocates tasks and processes to the appropriate level and supports a consistent federalisation process. Third, the high-level committee must address the remaining unclear normative issues in a TVET Policy for 2030 with goals and a vision for the sector. This should include allocating responsibilities to formal and non-formal education, defining what Nepal means by "good governance", defining the TVET programme approach, allocating detailed tasks to all three government levels and defining specific objectives for the TVET sector. Fourth, develop a TVET Act as quickly as possible. This is particularly important because the seven provinces depend on a national TVET legal framework to develop their own laws. Fifth, conduct a comprehensive TVET financial flows analysis to reconcile TVET funding sources and expenditures.

Keywords: *TVET, Governance, Federalisation, Constitution*

1. Introduction

Nepal promulgated a new constitution in September 2015 that makes the country a federalised democracy. The governance structure extends the existing centralized model to one with federal, state, and

local governments; each with dedicated roles, rules, processes, and institutions. While the constitution of Nepal outlines the federalisation of many sectors and makes a clear commitment to education in

general, TVET is not specifically clarified. The government of Nepal is working with provincial and local authorities to implement the new constitution, but many questions remain open and some normative decisions are necessary before implementation can begin.

The present paper maps out the key elements of TVET federalisation. The paper is part of a larger body of work including studies that examine the various aspects of TVET systems (Baral et al., 2019), the financial flows related to TVET in Nepal (Parajuli et al., 2020), and specific TVET programmes (Bolli et al., 2020a, Bolli et al., 2020b).

The paper is structured as follows. Section 2 presents the methodology of the analysis. Section 3 discusses the existing literature. Section 4 presents the results and section 5 concludes.

2. Methodology

This paper builds on four data sources. The first data source consists of a literature review of relevant scholarship to TVET in Nepal. Renold and Caves (2017) present a detailed discussion of this literature review. The second data source comprises an extensive document analysis of Nepal's legal framework related to TVET.

The third and fourth data sources consist of two field trips to Nepal, during which we met with TVET stakeholders, visited TVET-related government actors at all levels, and discussed ideas and potential recommendations with TVET insiders.

This includes individual interactions and consultative workshops with the major stakeholders, including follow-up communication via email. The field trips further entail a visit to one province and selected Palikas (metropolitan cities) to understand their federalisation views and activities. Finally, the field trips also contain a symposium presentation of initial reflections and potential recommendations to stakeholders, organized by Kathmandu University.

3. Review of Literature

There is a great deal of literature on the relationship between decentralization and education (see, e.g. Faguet, 2013; Rodden, 2006; Rodden et al., 2003). The literature suggests that TVET decentralization is linked to positive outcomes, but only when it is done well. Without careful attention to fiscal incentives, decentralising TVET funding in Nepal might create problems in various government levels' behaviour. Those problems can include local overspending (Faguet, 2013), macroeconomic instability (de Mello & Barenstein, 2001; Montero & Samuels, 2004; Wildasin, 1998). These problems can be solved or reduced through transparency and outcome-oriented funding, which pays per capita rather than for specific inputs.

An academic-sector example of successful fiscal decentralization is Sweden in the 1980s and 1990s. In that reform, outcome-oriented funding moved down to the local level. Though some feared increased inequality,

that outcome did not materialize. Ahlin and Moerk (2008) also find that funding in the system remained stable.

For a TVET-specific example, we can learn from the decisive years between 1998 and 2007 in Switzerland. Renold and Barmettler (2007) describe the process of changing the Swiss VPET (Vocational and Professional Education and Training, the term used in Switzerland) system, including implementation of the 2004 VPET Umbrella Act. They describe how the system's funding changed from opaque and input-oriented to a transparent output-oriented model. This coordinated the costs of TVET with available public funding, increased autonomy and self-governance at the lower levels of the system, and incentivised local actors to perform efficiently rather than to extract personal benefits.

Renold and Barmettler (2007) point out that successful transitions like that of the Swiss system have certain prerequisites. The reform worked because its framers knew the system's costs and could set financial priorities based on different stakeholders' needs. Together, these create conditions that favour rational use of funds. According to this analysis, autonomy and transparency are the basis of successful TVET and quality assurance. As stated by the authors, "Education can only be achieved if the participants want to and do engage in the knowledge of things."¹ (p.

1 German: «Bildung kann nur gelingen, wenn die Beteiligten in Kenntnis der Dinge sich engagieren und engagieren wollen.»

115, own translation). Decentralization can have positive effects for fiscal management and sustainability of TVET systems, but the effects depend on good governance and outcome-oriented incentives.

The final piece of evidence is the special considerations for developing countries in financing decentralised TVET. Unlike their developed counterparts, developing countries are not usually moving from semi-independent local governments to a unified system, but from centralised government to a decentralised model that creates a new need for local knowledge and skills related to governing TVET (Bardhan, 2002). The government of Nepal cannot abandon its most poor, remote, and otherwise underprivileged citizens. TVET is one way Nepali people can access economic prosperity, so its objectives should be tied to improving individuals' economic participation and prosperity. Outcome-oriented funding can incentivise specific objectives, so it is even more important in this context.

4. Challenges of the Federalisation Process

Although many federalisation processes are already underway in Nepal, it is not completely clear yet how the federalisation process in Nepal's TVET sector will be organised. This is particularly important because the federalisation process requires coordination among the federal, state, and local levels. It is therefore very important that the government of Nepal makes decisions quickly and coordinates with the

province and local levels. The following subsections describe four very urgent tasks that the government of Nepal and MoEST should accomplish in the coming months. These will be critical for the TVET sector’s success.

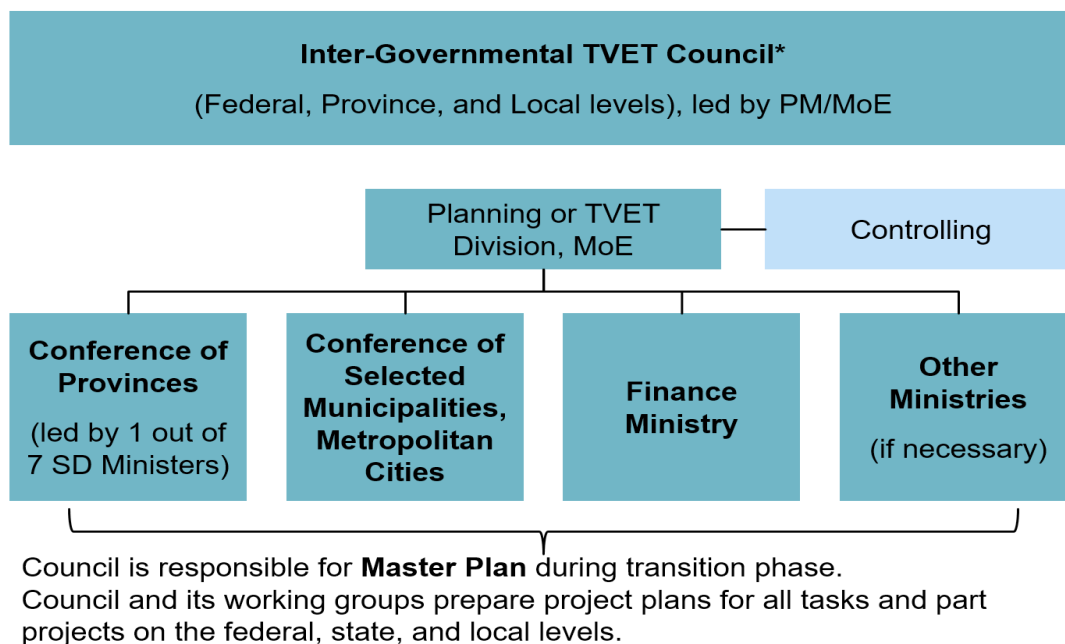
4.1. Establish an Inter-Governmental TVET Council/Coordination Committee

Federalisation requires a high degree of coordination among government levels. Coordination is also required, as stipulated by Art. 232 of the Constitution. One possible measure to facilitate this coordination is creating an Inter-Governmental TVET Council/Coordination Committee (or

High-Level Steering Committee), which should be led either by the Prime Minister or the Minister of Education. This body would fit well with the Inter-Governmental Fiscal Bill (see Part 9, Art. 33), which places similar importance on coordination among government levels.

We show one possible model for the composition of this council in figure 1. As a political body, its primary task is to make the necessary decisions so that working groups can carry out the work it commissions.

In addition to the Federal Government, which should be represented in particular by the MoEST, the Ministry of Finance



*Analogous to the Inter-Governmental Fiscal Council (see Inter-Governmental Fiscal Bill, Part 9 – miscellaneous, Art. 33)

Figure 1: Composition of the Inter-Governmental TVET Council/Coordination committee or similar institution

(Source: authors’ own depiction; Renold et al., 2018, p. 35)

and/or other ministries, a representative number of political decision-makers from the province and local levels must be involved.

The secretariat of this Council can be run by an administrative unit of the MoEST. The Council determines its organization (e.g. the number of meetings per year) and sets up working groups, which form the basis for decisions in each meeting. The working groups may also include experts from the TVET sector or external technical advisors.

The same high-level committee should approve a new TVET Policy 2030 and must address the remaining unclear normative issues. These include allocating responsibilities formal and non-formal education, defining what Nepal means by "good governance" and the TVET programme approach, allocating detailed tasks to all three government levels—unless they are already clearly defined in the unbundling report—and defining specific objectives and regulations for the TVET sector. This body, according to Art. 232 of the Constitution, should also coordinate the vertical political authorities and ensure that there is an overall coherent legal framework.

4.2. Identify and describe key TVET processes in a Master Plan

Federalising education includes concurrent powers shared among

government levels. Therefore, all three levels must work together (Constitution Art. 232). In addition, joint planning is essential for an orderly transition from the old to the new regime. This requires all three levels to transparently decide upon and schedule transition tasks.

A Master Plan is a useful strategy for managing complex change processes. The Master Plan should summarize the transition's organizational structure and all necessary projects it entails, making the activities within the transition process transparent. This increases trust, confidence and efficiency. Figures 2, 3 and 4 exemplify possible outlines for Master Plans at the federal, province and local levels respectively. These visualize the concept rather than suggesting an actual Master Plan. Each row represents a project or sub-project, and the columns display the timing between 2021 and 2025. Blue triangles indicate completion or deliverables. Vertical arrows are examples interrelations among projects and sub-projects.

The project plan outlines for the three political levels shown below were first published by Renold et al. (2018). They are renewed in the following because – despite enormous efforts for a rapid reform – not all processes have yet been initiated. The Education Policy 2019 was adopted and contains some normative statements on vocational education. In addition, various bills were drafted over

several months. At present, a first TVET Act is available, but it has not yet been passed by parliament.

Figure 2 shows examples of urgent projects and sub-projects on the federal level.

- Creating an *Inter-Governmental TVET Council/Coordination Committee* is the cornerstone of coordination among the federal, province, and local levels. The Council should be responsible for developing a *Master Plan* that defines subprojects, priorities, and the critical path.

- Defining the *TVET Policy* is closely related to developing the TVET Act. The Policy clarifies a series of normative questions, creating a foundation for developing the TVET Act. This project is currently underway and may affect both national and provincial TVET laws.
- The cornerstone of the plan is enacting a *TVET Act* as soon as possible—indicated by the blue triangle at the end of 2021. The first version of the TVET Act should be followed by its implementation and continuous evaluation of that implementation. This will probably lead

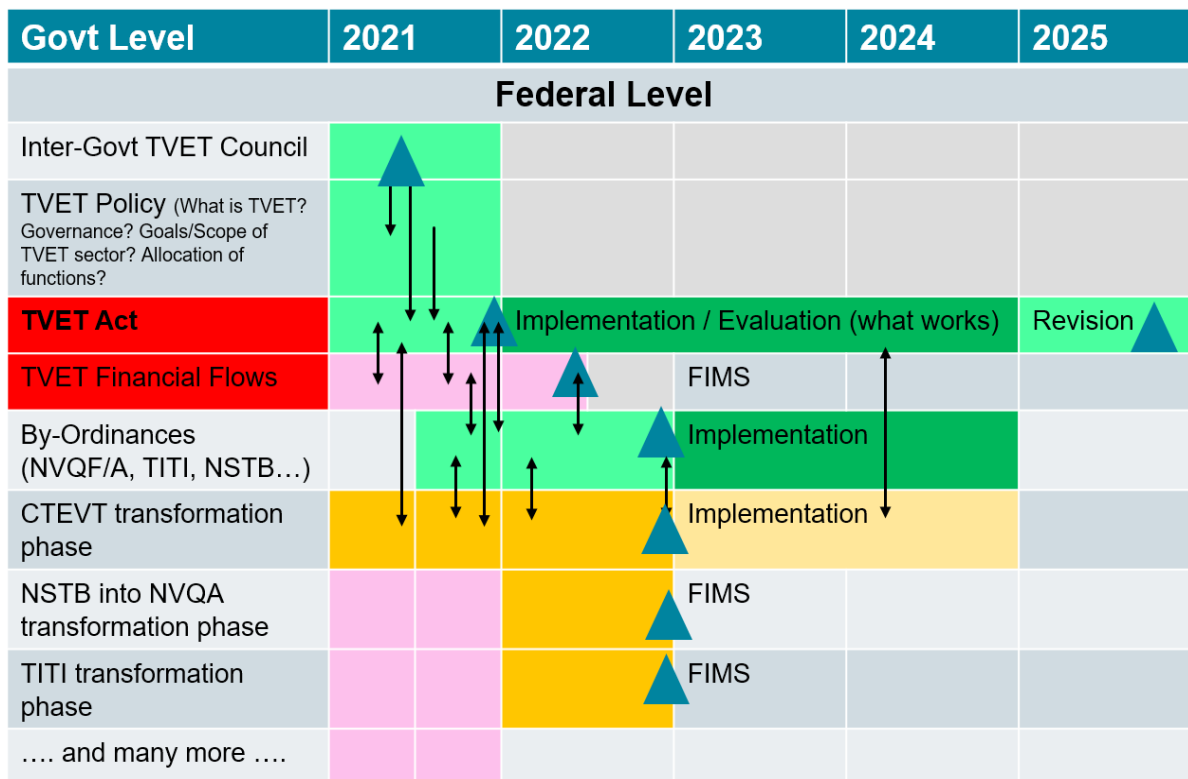


Figure 2: Examples of urgent projects on the federal level

(Source: Renold et al., 2018, p. 37. Own adapted depiction by the authors. Triangles represent decisions. Arrows shows connections among projects.)

to a revision of the TVET Act in 2025 based on the results and TVET leaders learning from experience. Furthermore, coordination with Social Development Ministers should ensure a coherent legal framework for the whole TVET system.

- A *TVET Financial Flows Study* is another key project that will help guide federalisation. The study, discussed in detail below, will ideally be formalised into a financial management system for TVET.
- Figure 2 shows *subprojects as ordinances or bylaws of the TVET Act*. They include

CTEVT federalisation, transforming the NSTB into the NVQA, and federalising TITI.

- Since this is a non-exhaustive list of necessary subprojects, the last row refers collectively to the many more important subprojects.

Figure 3 displays examples of urgent projects and subprojects on the province level.

- Participation of provinces in the *Inter-Governmental TVET Council/Coordination Committee* supports coordination among government levels.

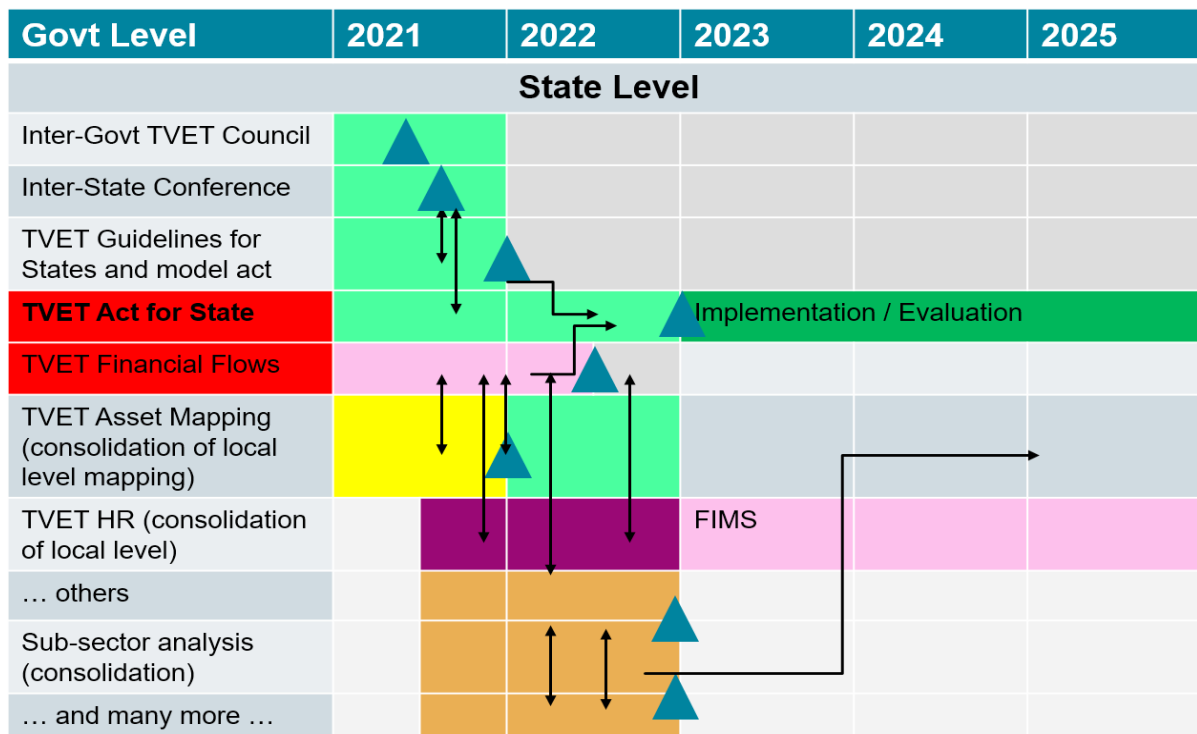


Figure 3: Examples of urgent projects on the province level

(Source: Renold et al., 2018, p. 38. Own adapted depiction by the authors. Triangles represent decisions. Arrows shows connections among projects.)

- Provinces (states) may also organise an *Inter-Province Conference* that coordinates province federalisation work.
- The cornerstone of federalising TVET at the province level is *developing Province TVET Acts* based on the federal TVET Act. These clarify the interconnections among projects and subprojects on the federal and province levels, and on the province and local levels. The province TVET act is related to developing province TVET guidelines and designing a corresponding Model Act to help provinces create their own TVET Acts. Currently, some Province TVET Acts have already been drafted. Although this is understandable due to the delay at the national level, the interest of all stakeholders must be to coordinate the legislative processes at all three political levels so that an efficient, coherent and effective TVET system can emerge.
- The Province TVET Acts also build on the *Financial Flows Study*, which highlights how closely related the Master Plan need to be to the different government levels. Initial empirical studies of financial flows at the federal level have been prepared (Parajuli et al., 2020). These studies show above all how important it is not only to distinguish between formal and non-formal programs in legislation, but also to differentiate government spending accordingly.
- Other examples of urgent subprojects on

the province level include consolidating local subprojects like local level asset mapping, sub-sector analysis, and HR development. As a result, the Master Plans for the province and local levels are closely interlinked.

Figure 4 shows examples of urgent projects and sub-projects on the local level.

- Local governments coordinate with the federal and province levels through representatives in the *Inter-Governmental TVET Council/Coordination Committee*.
- An *Inter-Local Conference* among local levels within provinces can help coordinate local actors.
- Further full cost analysis studies on province and local levels depends on *TVET Asset Mapping*. The latter project will gather information on existing institutions, schools and industry organizations already involved in TVET at the local level.
- A *full cost analysis* is a key ingredient for setting local-level annual TVET budgets.
- Furthermore, local actors need support in *developing the human resources* necessary to steer and implement TVET. This human resource development refers to both administrative and school staff.

A working group on Master Plan Management, based in the Inter-Governmental TVET Council/Coordination Committee, should initiate and plan the timing of the various subprojects together with provinces and local governments.

Govt Level	2021	2022	2023	2024	2025
Local Level					
Inter-Govt TVET Council	▲				
Inter-Local Conference	▲				
TVET Guidelines for States and model act	▲				
TVET Act for State	▲		▲	Implementation / Evaluation	
TVET Financial Flows	▲				
TVET Asset Mapping (existing institutions/schools and industry organization)	▲	▲	▲		
Annual TVET Budget		▲	▲	FIMS	FIMS
TVET HR development (admin & school staff)		▲	▲	FIMS	FIMS
... and many more ...	▲	▲			

Figure 4: Examples of urgent projects on the local level

(Source: Renold et al., 2018, p. 39. Own adapted depiction by the authors. Triangles represent decisions. Arrows shows connections among projects.)

Specifically, this working group should:

- List all projects and subprojects necessary for federalising the TVET sector at each government level in the next five years.
- Define the critical path at each level and coordinate it with all governmental levels. What needs to be done first?
- Define necessary working groups on each level and allocate projects among them.
- Check the vertical coherence or multi-

level governance of project work, For example, how are projects on each level interlinked? What is the critical path for the whole TVET federalisation process? What can be done in a simultaneous engineering mode?

4.3. Writing a TVET Policy for 2030

At the beginning of 2020, an Education Policy was adopted that also affects the TVET sector. It states that numerous projects such as "skill mapping, quality standards up to diploma level, collaboration with the province sector

in the field of legal regulation, research and monitoring, [and] capacity building programs” will be the subject of the TVET policy in Nepal. Although this is an important step for the coordination of overall education policy in Nepal, it will need to be made more concrete in the context of a longer-term TVET Strategy that strengthens and coherently develops the sector. It will be particularly important, for example, to specify the roles and responsibilities of employers and private-sector businesses in the TVET sector.

An important task of the Inter-Governmental TVET Council/Coordination Committee is to clarify a series of normative questions within the framework of policy guidelines (i.e. a TVET Policy 2030). For example, what type of governance should be chosen for the TVET system, how are the TVET functions allocated among government levels respecting the unbundling report and other regulations, and what will be the role of industry in the future? The role of the business sector in the design and implementation of TVET programs is underdeveloped in Nepal. However, cooperation between the actors of the education and employment system is constitutive in TVET, which is why this aspect should be given special importance in the TVET policy. These questions and others determine Nepal’s ideal TVET for the long term. They concern the sovereignty of Nepal and

should be answered jointly by TVET leaders at all levels.

Because of their distinct and important roles in skills development and individuals’ educational careers, *formal*, *non-formal* and *informal* forms of education should be individually addressed in both the TVET Policy and the TVET Act. As described by Lamsal (2012) and Parajuli et al. (2020), formal, non-formal, and informal education should be treated differently in terms of funding mechanisms.

Good governance for TVET is a normative issue, but Renold and Caves (2017) find that Nepal’s TVET leaders prefer an output-oriented and coordinated governance model. The previous model (before changing the constitution) was fragmented and input-oriented, so that goal required significant change in both the type and mode of governance. Governance type is its degree of coordination or fragmentation. Coordinated governance means that all actors act in concert within a clear and unified legal framework. Governance mode is about how funding is allocated, whether it is input- or output-oriented. Output-oriented funding is usually allocated on a per capita basis according to student numbers modified by levels of need.

Nepal’s approach to its TVET programmes is another normative issue,

but again we already have a general vision for where leaders and stakeholders want the sector to be. As presented by the MoEST during our mission for this report, the general strategy of the TVET sector is “to develop a market-sensitive, occupation-driven, inclusive TVET system to serve all local levels and every segment of society” (Khanal, 2018). In addition, point 8 of the Education Road Map calls for strengthening the link between education and business sector. Therefore, the approach to TVET programmes in Nepal will be one of strong education-employment linkage based on occupation-driven programmes.

Allocating TVET-sector functions to all three levels of government is a difficult issue. Renold and Caves (2017) fully describe the allocation of functions to government levels, but the approach follows two essential principles. First is subsidiarity, and second is that structures follow functions. Subsidiarity dictates that each level of governance should only perform those functions that cannot be performed by a lower level. The principle that structures follow functions is easily maintained by following a simple process for function allocation: list every key task in a given sector, then allocate them according to subsidiarity rather than according to the existing institutions. The developments of new laws clearly show that this allocation has already been made in broad terms.

The Unbundling Report (Federalism Implementation and Administration Restructuring Coordination Committee, 2017) determines most functions’ allocation, and is also a good list of the tasks that will be carried out by the national MoEST and other authorities.

This TVET policy should also set the scope and targets for the TVET sector for the next 15 years so that all three government levels can align their activities and budgets accordingly. Prime Minister Oli has already mentioned such a goal by announcing that students in all local units should have access to a TVET school. Identifying key issues and setting quantitative, time-limited goals will help with budget calculations and forecasting. They also improve dialogue with donor partners by setting clear priorities and identifying areas of need.

4.4. Legislate a TVET Act

A TVET Act has been drafted and is in preparation for the approval process. This is a very urgent matter because provinces are already beginning to develop their own legal framework. Article 232 of the Constitution reinforces that it is very important to initiate this work quickly. The situation is also urgent because many managers of institutions and ongoing projects are uncertain about what measures they must take to federalise their work.

The work on the TVET Policy should

be accelerated so that, if necessary, the existing draft of the TVET Law could still be adapted. This would improve the coherence of the TVET sector. This is known as simultaneous engineering. The normative decisions underlying the framework of the TVET Policy will influence the character and terms of the law.

To ensure that the federalisation process can offer all TVET actors security, confidence and opportunities as quickly as possible, legal regulations should be formulated as open to development. This means that the wording of the articles allows a certain flexibility for implementation. All three government levels need to gain experience in their roles, and may find certain tasks are better allocated to different bodies.

We also recommend including a chapter with transitional provisions. These encourage actors on all levels to examine what works and what needs to be improved as part of implementation. It is very challenging to formulate a first TVET law without having experience in the interaction between the three political levels. Therefore, it is recommended to integrate a time horizon of 4-5 years in the transitional provisions. This allows to review the functioning and to make adjustments in agreement with all three political levels.

4.5. Conduct a Financial Flow Study

A fifth central project concerns financial flows, including both allocation and spending. Its implementation has started and should be in parallel to the projects mentioned above.

Why is this project so important? In order for the TVET sector to be successful and meet its goals as formulated in the TVET policy, all stakeholders on all levels must be clear on current and future financial flows. However, there is limited literature related to financing the TVET sector in Nepal. The Asian Development Bank (ADB, 2015) has a relevant report that looks into the CTEVT budget and expenditures from 2006-2009.

Lamsal (2011) examines international TVET financing methods based on data up to 2010/11. In particular, he emphasizes the importance of diverse funding sources, which should be better explored in Nepal. Funding that comes from private-sector sources allows for greater connection between industry and TVET. Lamsal (2012) calls for a distinction between modes of TVET delivery, especially formal and non-formal education. Despite both program types potentially being referred to as TVET, their governance and financing guidelines will be greatly different.

Gautam (2010), highlights additional difficulties related to allocating donor partner funds in a study on auditing in Per Capita Funding (PCF). That study meets

the challenge of auditing of per capita funding and shows the current financial flows chart for donor partners. The chart is a mix of a “pool funding modality as guided by the joint financing agreement” and parallel funding applied separately by some donor partners. Although the study is focused on the compulsory school sector, things are similar in the TVET sector.

Parajuli (2013) undertakes a more thorough analysis by examining the financing of the entire TVET sector in Nepal until 2011/12. That scientific article is based on a study commissioned by the SDC entitled Resource needs Assessment for TVET Sub-Sector in Nepal, Dec. 2012 (Parajuli & Shakya, 2012). Most of the data is based on the Red Book, which also provides information about donor funding in government programmes. However, Parajuli (2013) emphasizes that this donor money only covers part of the funding because some of it goes directly to NGOs and their programmes. It is therefore difficult to aggregate this important financial information. This finding suggests that TVET in Nepal is funded in an opaque and apparently input-oriented manner.

In addition, despite increasing investment in TVET, Nepal has not successfully increased efficiency or output. Parajuli argues that the “inefficiency of the TVET system is amply illustrated by the fact that the system has seriously been

suffering from the lack of information, particularly, the financial information that is so essential for planning and decision making purposes. A situation of not having any financial or other projections is a situation of planning hazard where there is a very high chance that the implemented programmes fail to achieve the intended objectives” (p. 8). Increased information-sharing and transparency may be key for improving the effectiveness of TVET funding in Nepal.

These existing studies on financing the TVET sector in Nepal show that a more in-depth analysis will be required to strengthen the TVET sector as a whole. Therefore, in our report we recommended to carry out a comprehensive TVET financial flows analysis in three steps (Renold et al., 2018).

Step 1: Update and extend the data published in Tables 1 and 2 in Parajuli and Shakya (2012), if possible until 2018. Record data from the local units and any local donor partner support to improve the transparency of existing TVET funding.

Step 2: Calculate annual TVET revenues and spending to make it transparent. Include the development of both revenue and spending over time. This helps create a robust calculation scheme parallel to the development and implementation of legislation, which can also

be transitioned into a financial management system (FIMS).

Step 3: Carry out a full cost survey to generate a complete picture of financing conditions at the local and province levels. As part of a pilot study in one state, include a representative number of vocational schools, other educational institutions, and education administration. The pilot study should improve knowledge of cost types and factors, contributing to the FIMS.

The first step has already been carried out (Parajuli et al., 2020) and clearly shows the challenges. On one hand, it points out the difficulty of decoding the financial flows between formal and non-formal education. On the other hand, it is clear that Nepal lacks the financial resources to meet the government's ambitious goals – for example ensuring that 70% of young people have access to TVET. Without additional financial resources, which can be generated in the future on the provincial and local level, and without the involvement of the business sector, it will hardly be possible to strengthen the TVET sector in Nepal.

5 Conclusions

Nepal is already on track for a substantial improvement in the TVET sector and its governance. The process will take time.

Today's leaders can improve the future of the country by continuing to embrace change, take on challenging projects, and clarify difficult issues. A stronger TVET sector gives Nepal a better chance at developing economically, gives young people more access to opportunity, and creates a stronger skills base for continued economic development.

This paper puts forth five recommendations that are crucial for the continued development and federalisation of Nepal's TVET sector:

1. Establish an Inter-Governmental TVET Council/Coordination Committee

A high-level body with representatives from all three government levels must be set up urgently to ensure that all TVET federalization activities are coordinated among the federal, province and local levels. This task can be led by TVET division in the MoEST.

2. Identify and describe key TVET processes in a Master Plan

To honour the principle that structures follow functions and ensure that organizational structures are not designed before structures become clear, identify and describe in detail the key processes of the TVET sector. Every task and process can be allocated to the appropriate level, which helps support a consistent federalisation process.

3. Create a TVET Policy 2030

The same high-level committee must

address the remaining unclear normative issues. These include allocating responsibilities formal and non-formal education, defining what Nepal means by "good governance" and the TVET programme approach, allocating detailed tasks to all three government levels – unless they are already clearly defined in the unbundling report – and defining specific objectives for the TVET sector.

4. Legislate a TVET Act

Based on the TVET Policy 2030, the current draft of the TVET Act should be approved as quickly as possible. This is the most important element of the critical path to federalising TVET because the seven provinces depend on a national TVET legal framework to develop their own province laws.

5. Complete the TVET financial flows analysis

TVET funding sources and expenditures must be reconciled. This can only be done if one knows which government level carries out which tasks, and knows TVET development goals including how many people will be trained every year. We recommend carrying out further financial flow analysis to generate evidence that help strengthen the TVET sector.

Nepal has many good prerequisites for achieving these issues. However, it is very

important that the high pace of reforms is maintained and that coordination among all actors can be intensified.

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