
Joint Appointments In Ethiopian Higher Education: Partnerships to Overcome Scarcity

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Introduction

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But is the situation really that simple? Many potential lecturers choose to work for government or nonprofit organizations with nearly the same career opportunities as in higher education, apparently motivated by public spirit and ideals. Thus, when we look more carefully, the shortage of lecturers appears to be broader than just the more visible drain to the richer private sector. It appears instead to be the result of a total demand for experts that is both larger and growing faster than the supply of trained and experienced people. The resulting competition for potential lecturers is therefore great, the shortages are obvious, and the defections from one type of organization to a competing one are glaring.

Little has been done to critically review the legislation governing higher education employment and career structure in order to ascertain whether it is commensurate with the level of development of the institution. Such a comprehensive review should be undertaken. But simply racing to raise the standard of compensation in different

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organizations, bidding up the price of experts all around, is not the only, and may not be the best solution. In times of severe shortage, other strategies may be better for society. This article considers one such strategy.

This article considers the pros and cons of *Joint Appointments* as a way of turning what is now a competitive struggle into a cooperative joint venture; it explores ways to optimize the benefits and address the problems identified; and it strongly encourages the use of *Joint Appointments*.

The Meaning of Joint Appointment

Joint Appointments would allow an expert employed outside academia to continue to work there but also to be hired as a university lecturer. Of course, many practitioners teach part-time. But a *Joint Appointment*, as we have conceived it, is more than just a part-time lecturer. The key difference between a Joint Appointment and a part-time lecturer is that the part-time lecturer only teaches courses at the university and has no role in faculty governance, while the practitioner with a Joint Appointment in a university would be a regular member of a Faculty, though on a less than full-time basis, and therefore involved in university governance.

It should be noted that the terminology *Joint Appointment* as it is used here stems from the medical context in which most of Ethiopia's limited experience with Joint Appointment appears to have arisen (see below). In other countries *Joint Appointment* often refers to the practice of appointing individuals to more than one academic faculty (e.g., Joint Appointment of a mathematician to the faculties of mathematics and engineering or computer science) or to an academic faculty and a related academic "Institute" or "Center" (e.g., Joint Appointment of a physicist to the Faculty of Natural Science, Department of Physics and to a Center for Advanced Studies; such

centers and institutes are often established in order to raise funds for research¹.)

There does not seem to be a universally accepted equivalent term to our Joint Appointment in use in the USA or Europe, though Partial Appointment² and Special Appointment are sometimes used. More generally, universities there employ both full-time and part-time faculty members and, in some universities, some part-time faculty may play a part in faculty and university governance through a variety of organizational rules and mechanisms³.

Another similar but distinguishable relationship, used both in Ethiopia and elsewhere, is that of "adjunct faculty". These are part-time instructors with ranks similar to university academic ranks, such as lecturer, assistant professor, and professor, and promotions and pay scales to match. But they do not participate in university governance⁴.

Attracting the best available instructors in the most competitive disciplines will probably require the creative use of a full range of hiring categories, in order to provide an appropriate relationship attractive to the wide variety of needs of different instructors. Thus, a faculty might combine a core of full-time faculty members of different

¹ Both are common practices at American and European Universities: e.g., Princeton University's Woodrow Wilson School of Public and International Affairs, in which all instructors must have a joint appointment in the School and in another Faculty, typically Political Science or Economics; and which University also shares many Faculty appointments with the Institute for Advanced Research, an independent research institute.

² E.g., see, The University of Michigan Faculty Handbook, Section 6.7., <http://www.umich.edu/~provost/handbook/6/6.7.html>.

³ For example, the University of Washington [State] determines the extent of participation in governance by the percent of an individual's time for which they are appointed; e.g., an assistant professor with a 50% appointment or greater is a voting member of the faculty; but a lecturer must be full-time to be a voting member. University of Washington Handbook Section 21-32, <http://www.washington.edu/faculty/facsenate/handbook.html>. More examples are given later in this article.

⁴ Interviews by the first author with members of the Faculties of Law and Medicine at Addis Ababa University where adjunct academic staff are employed. In the Faculty of Medicine they are called Honorary Staff.

ranks with a few Joint Appointments, several Adjunct academic staff of different ranks, and additional contract part-time instructors, as needed, to create a high quality working group able to provide the desired research, teaching, and consulting services with both academic and practical content.

The Benefits of Joint Appointment

First, would a university with sufficient resources and a sufficient supply of lecturers chose to hire *part-time* lecturers to teach courses that full-time faculty could teach? Yes, many of the most famous universities in the world do just that. Why⁵? Because part-time lecturers, especially those with significant practical experience as well as good academic training and abilities, enrich university education in many ways. Perhaps the two most notable are:

- They bring into the classroom knowledge of how tasks are actually performed and the reasons why they are performed that way (for better or worse), together with, we hope and expect, knowledge of how academically trained but inexperienced lecturers think the tasks should be done in a more perfect world.
- They have contacts with the 'world of practice', whether government, nonprofit or for profit; that:
 - create and improve practical-attachment opportunities for students, and, at the same time;
 - Offer direct routes by which less-than-perfect practices and habits in the world of practice may be influenced by academic enrichment. After all, teaching is a two-way street

⁵ The analysis is based primarily on the first author's informal study of the practice at Denver University, Princeton University, City University of New York, and the London School of Economics. *But see also*, American Association of University Professors, *Guidelines for Good Practice Part-Time and Non-Tenure-Track Faculty*, <http://www.aap.org/ptguide.htm>.

and lecturers, whether full-time or part-time, must always be learning and thus improving their own, as well as their students', practice.

Finally, we should not underestimate the importance of the fact that practitioners carry back to their for-profit, nonprofit and government spheres a better understanding of the needs and abilities of the university. In these times of changing resource sources this may well be the most valuable benefit of Joint Appointment.

Now, what would Joint Appointment add to these benefits that part-time lecturers can not? Because Joint Appointment lecturers would participate in university governance, they would bring to the management of the university the same sort of enrichment that part-time lecturers bring to the classroom. Some specific benefits might include the following types:

- Organizations differ, but one of the sources of managerial improvement in recent years has been cross-fertilization between different types of organizations. Adding the knowledge and experience of practicing experts in various fields and from a variety of organizations to the managerial function of universities would enrich their universe of tried and proven managerial solutions. Not every managerial solution is transferable but often knowing about them enriches management's options in their own organizations. For example, when the United States Federal Government wanted to improve its performance it took many lessons from the private and non-profit sectors⁶.
- On a more substantive level, building strong medical, legal and engineering curricula requires not just academic understanding of the disciplines but also practical understanding. It is relatively easy to design faculties that graduate brilliant, well educated

⁶ Al Gore, Jr., "The New Job of the Federal Executive," *Public Administration Review* (July/August, 1994), pp. 317-321.

students who do not know how to do the jobs Ethiopian citizens desperately need them to do⁷. This need not be the case: Ethiopia was once internationally famous for its innovative practice-oriented medical training at Gonder, designed to overcome the limitations of purely academic training and produce health care practitioners at graduation with training and attitudes appropriate to the needs of Ethiopia's rural poor⁸. Not every practitioner will be able to introduce such knowledge into the faculty, but finding those few who can will be worth the search.

- Finally, the limitations of purely academic training are not found just in the graduates' knowledge base. They are also found in graduates' attitudes towards what they see as their entitlements, their immediate prospects, and their future job opportunities. Though dedication to social service is admirable, it is shortsighted not to anticipate and attempt to further appropriately socialize natural self-interest. Programs designed to create graduates who will be able and willing to

⁷ These concerns were well expressed in three working papers presented to the Curriculum Review Workshop for Mekelle University Law Faculty, held in Mekelle, on November 30 and December 1, 2000, by Mehari Redae (AAU Law Faculty) and Assefa Fiseha, Dean, ECSC Law Faculty, by Getahun Kassa, Head of the Tigray Bureau of Justice, and by Solomon Abadi and Esayas Yosief, Graduate Assistants at Mekelle University Law Faculty. The Proceedings of that Workshop are in production at this time. Also, the authors' experience leads them to conclude that one of the most difficult parts of improving the practical aspects of higher education in Ethiopia is that most academic staff move directly from their own academic education to teaching positions, with no opportunity to gain practical experience and little in the way of practical education. When instructors are expected to change a course in Contract Law by including exercises in drafting contracts, but they themselves have never drafted a contract, implementation becomes difficult.

⁸ It is interesting to note how many people believe that hospital-based medical training has practical training built into it simply because every medical trainee must care for patients. Of course, in some sense, this is true. But the practical limitations of care for patients in teaching centers are quite different from the practical limitations of care for the same patient in a remote rural setting. The unwillingness of many GPs to operate in less than perfect conditions even when a life is at risk is a good example. It is in this sense that introducing practical experience into the medical training programs is similar to other academic disciplines. This information is based on many interviews by the first author with Ethiopian medical doctors.

serve the poor rural people in remote areas, still the home of the vast majority of Ethiopians, must socialize students appropriately so that their expectations and self-reliant strengths will prepare them for such service. Faculties in which practitioners participate in governance may be better able to produce such attitudes⁹, provided that the practitioners are carefully selected to embody the values the university seeks to inculcate in the students, again, just as with those in purely academic positions.

Obviously, not every practitioner, probably not even most, will be qualified to participate in such university programs; most do not have the knowledge, skills and attitudes these benefits require. Some sort of selection process, together with monitoring and evaluation and a close working relationship, must be applied to searching for them, just as they are applied to applicants for purely academic positions. But through such a screening and employment policy, practitioners able to stimulate innovations in management, teaching methods, and attitudes may be brought into academic programs. It takes practitioners familiar with the demands of practice to structure such innovations. And it may well require a Faculty Academic Commission, University Senate, and even a University Board that includes practitioners to push lecturers to make their course materials, teaching methods and advice to and treatment of students truly more practice-oriented.

The Shortfalls of Joint Appointments

Conceptually, the potential shortfalls of Joint Appointments that are unique to that employment relationship arise from the same source as the potential benefits, that is, from the participation of part-time

⁹ Again, the experience of Gondar, Jimma and now Dilla Health Science Faculties, described in comments made at the Mekelle University Law Faculty Curriculum Review Workshop, seems to indicate that this is so.

lecturers in university governance¹⁰ Other problems arise from attributes of the relationship that are common to part-time academic staff, whether contract, adjunct or Joint Appointment.

- As remarked above, many part-time instructors with practical experience do not have as much academic experience, academic interest or academic potential as people selected for purely academic appointments. They have not been socialized in the traditions and practices of the academic world and they may, as a result, appear to those with more refined academic sensibilities to be less reliable as partners in university governance. But Joint Appointment academic staff would bring this same inexperience of academia into university governance.

Summary Commentary

- First, such concerns are always present in the selection, promotion and administrative assignment of all faculty members, whether full-time or Joint Appointments. In making Joint Appointment selections, promotions and administrative assignments, adequate consideration must be given to the attributes and character of the individual. Not all part-time lecturers, in fact probably only a very small percentage, should be involved in university governance, just as not all applicants for academic positions should be hired or promoted or assigned administrative duties just because they have lofty academic records.
- Second, just as young academic staff need supervision and guidance in the values and ways of academia, new

¹⁰ These observations are primarily based on the first author's personal experience as a practitioner teaching, and now as part of the administration, at several universities with very strong but different organizational cultures. *But see also, American Association of University Professors Guidelines for Good Practice Part-Time and Non-Tenure-Track Faculty*, <http://www.aaup.org/ptguide.htm>.

Joint Appointees also will. But Joint Appointees will be more mature, since they will have had a good deal of experience to make them candidates for Joint Appointment, and to some extent, their maturity should make their introduction to academia simpler and also allow them to carry their practitioners' knowledge, attitudes and practice into the discussions of university governance.

- On the other side of that argument, however, experience may show that some practitioners who are very long out of school will have a hard time -- or simply find it not worth the effort -- to adapt¹¹
- Secondly, Joint Appointment instructors will generally have less contact with students and less time for administrative assignments than full-time faculty members do, just as is the case with contract part-time instructors. This will affect the quality of education and administration.

Summary Commentary

- Again, this problem is inherent with part-time instructors, whether contract, adjunct or Joint Appointment, and Joint Appointment adds nothing to the problem. It is, however, necessary to consider the problem when evaluating the expected benefits of a Joint Appointment, and in determining the terms of such a Joint Appointment. The time constraint will be a real issue and care will have to be taken in realistically assessing expectations, and in constructing fruitful terms of reference that produce the expected benefits in the few cases that qualify.

¹¹ Personal experience of the first author, despite his having taught as an outsider in five universities over thirty years.

- Most generally, and probably more importantly, we lack experience in Ethiopian higher education with Joint Appointment, which means that the rules governing such positions are less well developed or may be seen as problematic, and many issues may be of first impression.

Summary Commentary

- Thus, one aspect of utilization of Joint Appointments may be the need to clarify or establish the practice legally and to develop appropriate guidelines.

These hurdles are real, but may be seen as beneficial: they probably will lead to the slow adoption and careful use of Joint Appointments only where the benefits clearly outweigh the additional "headaches" and "transaction costs". In short, if the practice is seen as valuable, the practice should not be difficult to establish so long as it is approached thoughtfully and with care.

Additional illumination of these basic conceptually-derived issues, as well as some lessons about guidelines, is found in the experience of Ethiopia and other countries with something like Joint Appointment.

The Experience of Ethiopia with Joint Appointments

The experience in Ethiopia of something like Joint Appointment have been both positive and negative, respectively from the fields of medicine and law:

Medicine: The primary area of positive experience in Ethiopia with something like Joint Appointment has been in Medicine¹². Over many

¹² This section is based on interviews by the first author with Ethiopian doctors, both those who have been through the process and a few who have administered the process, like Dr. Legesse Zerihun, Associate Dean of AAU Faculty of Medicine, for whose kind assistance great thanks are given.

years, and under varying contract terms, the Ministry of Education (MoE) has engaged medical doctors as academicians, particularly medical specialists, to teach in Faculty of Medicine teaching hospitals. Initially, the doctors were employees of the Ministry of Health (MoH) with significant salary top-ups and allowances of several types paid by the MoE. The doctors were Medical Faculty members, and as such participated in Faculty of Medicine governance. At the same time, however, the doctors also served the public, often while teaching medical students, for which they were paid their MoH salary.

This sort of arrangement was essentially a Joint Appointment. The doctors were expected to give a certain amount of their time to each Ministry's concerns, and were compensated accordingly. It is likely that the Joint Appointment was a bit easier to accept in this case, where the goals of the two Ministries appear to be quite highly aligned, than it may be where the goals may appear less well aligned. However, even here, it is worth noting that the goals and practices of the MoE -- student training and research -- may well have diverged at times from the goals of the MoH -- patient care, as we will see below.

Subsequently, the doctors have become employees of the MoE, with all salary top-ups and allowances also paid by the MoE, and the relationship of Joint Appointment has ended. Conversely, Ministry of Health or private sector doctors who are paid to teach courses or supervise students on rounds at Black Lion Hospital or other hospitals are only part-time instructors or adjunct academic staff (called Honorary Staff at AAU Faculty of Medicine¹³) and not Joint Appointments.

¹³ AAU and its Health Sciences academic staff are currently undergoing continuing restructuring and the research on which this paper is based is likely to have missed some of the nuances, particularly in the nomenclature, of those changes, but it seems clear that the changes have done away with Joint Appointments. But the term Honorary Staff is also employed elsewhere for adjunct faculty members; e.g., see, *Faculty Handbook*, Mount Sinai School of Medicine, New York, <http://www.mssm.edu/forfaculty/handbook/chap6.shtml>.

These experiences with something like Joint Appointment demonstrate that two more parameters of Joint Appointment, in addition to the parameter of participation in university governance, are the associated parameters of *compensation* and conflicts of commitment. A professional with a Joint Appointment, who is both practicing outside the Faculty and teaching as a governance-participating member of a Faculty, might be compensated principally either by the university or the practice, and "topped up" by the other. Or the two organizations might simply split the compensation according to time spent at each job. Other formulas are possible.

But either way, the amount of time and energy, the commitment, the individual would be expected to contribute to each appointment must be clearly stated. This issue has already arisen in Ethiopia, when full time academic staff teach in other institutions on a contract basis. As we will see below, many universities in other countries have adopted clear written policies to address this sort of conflict. It is a serious but unavoidable issue, with or without Joint Appointment, and must be addressed through clearly stated and fair policies. Joint Appointment may entail opportunities for the problem to arise, but the problem is not unique to Joint Appointments.

Further regarding compensation, if Joint Appointment were to be utilized, the total amount of compensation, and how it would be apportioned between the university and the practice, needs serious consideration. We must recognize that the Joint Appointment is designed to compete in the market for scarce expertise by allowing the Joint Appointment instructor to have a somewhat higher income, and, at the same time, we must also recognize that making Joint Appointments too attractive is likely to lead to further exodus of regular full-time faculty. An appropriate balance must be struck. But the issue of compensation is complicated by the fact that many Joint Appointment holders in Medicine, Law and Engineering may be self-employed. If that is the case, the compensation they earn from their own business may be very high by comparison to what the University can pay.

Thus, if compensation were to be calculated on a flat percentage basis, i.e., the regular government scale university salary multiplied by the percentage of time given to the University's business, the pay from the University might be inconsequential compared to the private income. Where the non-university employment is also a salaried position, the comparison is likely to be less skewed, though private sector salaries are, in these fields, already far ahead of public salaries and must be expected to remain so.

The solution to this quandary will probably have to be pragmatic and empirical. Unfortunately, some people tend to analyze the situation conceptually by thinking of the difference between the value of the salary paid by the University and the income from the potential Joint Appointee's other work as a quantification of the value of the honor (and other more concrete benefits) derived from association with the University. By this theory, an engineer who makes Birr 1,300 per month as an instructor and Birr 3,000 per month in private practice, must be getting Birr 1,700 worth of honor as a university instructor. Unfortunately, this approach ignores the fact that the value of specialized labor is set in a market for that specialized skill. The income of a private engineer reflects mostly the supply and demand of engineers, while the salary of an instructor reflects a regulation that sets that salary. Thus, though the honor of the Joint Appointment is certainly additional compensation, and the University may certainly congratulate itself on this point, if the value the University attaches to this honor is higher than the value the people the University is seeking to attract place on it, the potential Joint Appointee will not be adequately attracted and the whole exercise will fail.

On the other hand if a low value is placed on the honor of Joint Appointment, then too much will be paid the Joint Appointee¹⁴, and

¹⁴ It is worth noting that Honorary (adjunct) academic staff at AAU Faculty of Medicine teaching hospitals other than Black Lion Hospital receive no additional payment, thus indicating the value associated with academic appointment. This is the case in many other teaching hospitals in the world; e.g., see, *Faculty Handbook*, Mount Sinai School of Medicine, New York, [Http:// www.mssm](http://www.mssm).

the regular academic staff will either object or try to become Joint Appointees themselves. Thus, it seems that a case by case approach may be needed at first, though eventually a sort of wage scale, perhaps different for different disciplines, will take shape. If the tool is to be refined, then the responsible authorities must be willing to grant the authority to universities to conduct careful experiments with a few initial offers of Joint Appointment.

Law: The second type of experience Ethiopia has had with something related to Joint Appointment is in the area of limitations on the practice of law by academic staff in Faculties of Law. The Ethiopian Federal Ministry of Justice licenses lawyers to practice in Federal Courts. Through this licensing power the Ministry has in the past prohibited full-time¹⁵ members of the Faculties of Law from practicing law, at least in the Federal Courts¹⁶. It was difficult to predict whether this prohibition would preclude Joint Appointment in Faculties of Law, primarily because the purpose of the restriction has not been clear. But on the second day of the Mekelle University Law Faculty Curriculum Review Workshop¹⁷, where a prior version of this paper was distributed, the Minister of Justice announced that the Ministry of Justice was now in the position to allow full time Law Faculty instructors to practice law. The Ministry of Justice has now changed its licensing policy to put this announcement into practice, and that

[edu/forfaculty/handbook/chap6.shtml](#). But usually these appointments are for a small percent of the practitioners' time.

¹⁵ Interestingly, however, the Ministry of Justice did not prohibit the converse, e.g., practicing lawyers it licenses may be part-time instructors in Law Faculties. There is a formal line of reasoning that may explain this configuration and, if so, it supports the instructive lessons drawn in the text. It is that full-time Law Faculty members have a role in university governance and, thus, are "principals" of the university (as owners are of their businesses). Therefore, full-time instructors put themselves in the moral position of protecting the interests of the university and, thus, in a very formalistic sense, the possibility of conflicting interests from practice arises for them but not for part-time instructors.

¹⁶ The practice of law in State Courts is licensed by the State Justice Bureaus and they may or may not have followed this restriction. Thus, the restriction's effect on Joint Appointment may not have arisen where practice in Federal Court was not important to the instructor [in the case of Federal Constitutional issues, this may be of significance] or the State Bureau of Justice in which the university is located chose not to adopt the restriction.

¹⁷ Held at Mekelle, Tigray, on November 30 and December 1, 2000.

formal potential barrier to Joint Appointment has now been removed. The remaining barrier for Faculties of Law, as for all other faculties, is Ministry of Education academic staff employment policies.

The following remarks, reproduced from the original version of this paper in a somewhat modified form, are meant to help us consider the kinds of lessons that we may learn from the previous prohibition.

Some commentators have hypothesized that the prohibition against academic lawyers practicing law was aimed at preventing certain types of "Public Interest Law" in which, most commonly, free legal advice is provided by Law Faculty members in order that poor people whose rights have been violated by the government may sue the government for redress. However, a more general purpose may have been simply to prevent all "Conflicts of Interest". Conflicts of interest may arise when the interests of one appointment conflict with the interests of the other appointment. For example, a clear conflict of interest might arise if a Faculty of Law member represented a student suing the university for discriminatory behavior.

Of course, conflicts of interest exist more generally with respect to every employee of any organization when the individual is tempted to misuse the information or authority the employment provides for individual financial gain, favors to friends or relatives, and so on. But Joint Appointment may introduce unique additional conflicts of interest such as the case of legal suit against the organization.

Whatever the purpose of the restriction prohibiting all practice for full-time members of Faculties of Law, the restriction appears to have been over-broad. Even if it was designed to prevent the broadest conceptualization of conflicts of interest, a prohibition against practice by Joint Appointment law instructors where conflicts of interest *actually arise*, or *even just appear to arise*, would achieve that objective and yet still allow Joint Appointment and its many benefits in most cases.

This experience with Joint Appointment demonstrates that a fourth parameter, in addition to the parameters of participation in university governance and compensation and conflicts of commitment, is the parameter of *conflicts of interest*. If Joint Appointment are to be utilized, adequate consideration must be given to the possibility of such conflicts and to a mechanism by which actual or even apparent conflicts are identified and either the Joint Appointment is not allowed or the prohibition is enforced to prevent a specific activity. Lessons about this may be found in the experience of other countries, below.

What the conflict of interest parameter of Joint Appointment means for other disciplines besides law, such as medicine and engineering, must be worked out. If Joint Appointment members of the Faculties of Engineering, Medicine, or other disciplines, also provide for-profit consulting services, might conflicts of interest arise? Several ways come to mind, based on the behavior of full-time academic staff, and, as we will see below, these conflicts of interest are often addressed by university policy statements and regulations in other countries.

The first is personal enrichment at the expense of the university through misappropriation of intellectual property. Scientific knowledge, teaching materials or even professional skills the university believes it owns, controls, or has contracted to utilize may be sold by the academic staff member. In very general economic terms this is a kind of "rent seeking" and may arise in any employment relationship¹⁸. Thus, Joint Appointment may provide yet another opportunity but it is not a unique cause of this sort of conflict of interest problem.

A second related but much more common conflict of interest problem, also possible to characterize as "rent seeking" and, once again, very often found in Ethiopia even without Joint Appointment, is the misuse

¹⁸ "Rentseeking" entails the use of knowledge, position, or authority as if it were private property and, thus, the charging of those entitled to access a "rent", i.e., an unauthorized fee for access; e.g., see, the Speech of Prime Minister Meles Zenawi at Harvard University, September, 2000.

of insider information or apparent or actual authority. A common example of this is the diversion of paying customers away from university consulting services towards the practitioner's private practice. Again, this problem occurs under other forms of employment, such as full-time academic staff who moonlight in private practices, or part-time contract employment or adjunct (Honorary) academic staff who work part of the time in other organizations.

Each of these types of conflict of interest has been raised with regard to doctors and engineers who work both for the government and for their own private practice. Monitoring and enforcement are necessary, as for any employee; the potential for this sort of conflict of interest is often present and appropriate provisions must be considered, implemented and enforced. If the restrictions are narrowly tailored, but effectively enforced, Joint Appointment could be accommodated in the same way as other potentially conflicted relationships have been accommodated. Joint Appointment is not a unique cause but, instead, a similar type of opportunity.

In most cases, the practical aspects of this accommodation will be clearly written contracts based on clear policies, and transparency on both sides -- meaning that information must be shared, attention to information must be given in the form of review and monitoring and evaluation, and there must be prompt enforcement of the contract provisions if information indicates a potential conflict of interest. This is, of course, easier to write than to put into practice. Contracts are never complete and foresight is always short. This part of the problem can be dealt with, however, by including clear guidelines, sufficiently flexible but fast dispute resolution mechanism -- such as an arbitration clause, and strong enforcement provisions.

The more intractable problem will be the sharing of information. The types of potential conflicts of interest we have foreseen are rooted primarily in the misuse of information or the diversion of clients and patients in the Joint Appointee's two spheres of activity. That

probably means the University must receive some form of information about the Joint Appointee's other practice, and perhaps even about the Joint Appointee's other clients and patients. Many potentially attractive Joint Appointees may not be willing to meet such information sharing requirements. Again, the pragmatic empirical approach may be the best approach in the early stages of use of Joint Appointment, as with the compensation and conflict of commitment issues.

But here the reputation of the University is also at stake. If a serious Conflict of Interest occurs (e.g., a lawyer using knowledge of university governance decisions in a law suit against the university, or a scientist selling proprietary information), learning about it after the fact may be too late to act effectively. Thus, the guidance given universities on the conflict of interest issue by the concerned authority may need to be more constraining, requiring information provisions that will mean some attractive Joint Appointees can not be hired in this sort of relationship. A good deal of experience with this sort of problem has been accumulated in other countries and we turn now to the lessons they have learned.

The Experience of Other Countries with Joint Appointments

Universities in foreign countries have for some time utilized something like Joint Appointments, often referred to as Partial Appointments, Divided Appointments, or Special Appointments, and some lessons may be learned from the policies, rules and contracts they have developed to obtain the benefits the practice provides and at the same time deal with the problems it raises. Further detailed investigation may be useful when the specific policies, rules and contracts needed to implement Joint Appointments are being drafted here, but the following general information will be quite useful in evaluating and resolving the problem to experiment with Joint Appointments.

Most generally it may be said that the policies and rules of universities in other countries do not identify and deal with the issues raised by Joint Appointment separately. Joint Appointment is seen as just another form of academic staff employment relationship and just another opportunity for the issues we have identified above to arise. More particularly:

- Academic staff taking positions in government, both local and federal, has a long history and it may be in this context that provisions for dealing with what we are calling Joint Appointments first arose. The number of such positions were not large and the practice drew little attention. In most cases, the universities took the position that it is beneficial to the university to have their academic staff in such positions, and the universities provide either leave of absence or, where it is possible to ensure that the public office will not interfere with university employment duties, something like Joint Appointment¹⁹. The tools used to arrive at this accommodation are invariably open disclosure, review, assessment and relationship definition.

One issue that commonly arose even in these cases, and continues through all forms of Joint Appointments as the use grows, is the problem of tenure. The most common tenure issues arising are:

- How to count time during Joint Appointment against waiting periods for tenure. The most common approach seems to be to "stop the clock" or slow down the clock based on the

¹⁹ A good example are the *Bylaws of the Board of Regents of The University of Michigan, Section 5.13*, <http://www.umich.edu/%7Eregents/bylaws5b.html>, which states: "The holding of public office by staff members is considered desirable and those seeking such office should be encouraged." The regulation then provides for disclosure by academic staff of their choice to run for office, of election, and a review to ensure that "the duties of the office will not interfere with the performance of University employment duties." Where interference can not be guaranteed, a leave of absence may be required.

percent of time allocated to university duties²⁰. Other universities apportion the tenure to the percent of the individual's work that is in the university²¹.

- Whether universities use Joint Appointments, and other less than full-time employment types, to undermine and reduce the number of tenure positions²² with negative effects on education. This is debated a great deal²³ but the markets bring the changes.
- It appears that it is only more recently that use of something like the concept of Joint Appointment discussed here has been found rapidly growing in the universities of more developed countries. Recently, commercialization of academic discoveries, usually of a technological nature, has led Faculty members, who participate in university governance, to also hold paid positions in non-university for-profit or non-profit organizations. [Universities may have their own for-profit or nonprofit organizations, but that is a different situation.] In many cases it has been found necessary to consider exactly the same parameters demonstrated by the Ethiopian experience:
 - University governance may be either beneficially or adversely affected by the commercial or non-profit (and, thus, often ideological) interests of those with Joint Appointments. Thus, institutional conflicts of interest arise.

²⁰ E.g., where "the instructional track portion of a partial appointment is less than 80% effort, the tenure clock does not run during the time the appointment is less than 80%." *The University of Michigan Faculty Handbook, Section 6.7.*, <http://www.umich.edu/provost/handbook/6/6.7.html>.

²¹ E.g., see, *Faculty Handbook, Chapter VI*, Mount Sinai School of Medicine, New York, <http://www.mssm.edu/forfaculty/handbook/chap6.shtml>.

²² See, *Guidelines for Good Practice Part-Time and Non-Tenure-Track Faculty*, American Association of University Professors, <http://www.aaup.org/ptguide.htm>.

²³ Ben Wildavsky, *Is Tenure slip-sliding away?* U.S. News, <http://www.usnews.com/usnews/edu/beyond/grad/gbtenu.html>.

- Joint Appointment issues of compensation and allocation of time and energy -- that is, conflicts of commitment -- may turn out to be either beneficial or adverse to the university.
- And individual conflicts of interest arise, including issues of use and ownership of intellectual property, such as patents and copyrights, and diversion of business.

And yet, even with these pitfalls, the concept of Joint Appointment discussed here is spreading in developed countries for exactly the same reason it is considered here. In order to stay up-to-date with the world of practice, universities need to gain and retain both the teaching and governance skills of valuable practitioners. They, therefore, try to fashion the narrowest regulations possible to guard against these concerns while still allowing such Joint Appointments²⁴.

The primary tools combine carefully written policy statements setting out disclosure, review pursuant to clear approval or denial standards, with clear and flexible contracts, setting forth the expectations of both the University and the Joint Appointee, requiring information sharing and "good faith" on both sides, containing a flexible but fast arbitration clause, and providing strong enforcement provisions. With experience, categories of activities more or less likely to raise conflicts of interest have been identified and the requirements for different types of activities may differ accordingly.

²⁴ The following analysis is taken from a range of universities including, for example, the University of Colorado, see *Administrative Policy Statement on Conflict of Interest*, <http://www.cu.edu/~policies/Academic/coninterest.html>, and Harvard University Faculty of Public Health, see *Policies on Conflict of Interest and Commitment*, <http://www.hsph.harvard.edu/academicaffairs/Conflicts.html>. Of significance, the general approach is most often a procedural one: "Instead of detailed rules and elaborate codes of ethics, the Faculty of Public Health therefore provides its members with guidelines on conflicts of commitment and interest that leave as much discretion as possible to the individual. It is assumed that all faculty members will be alert to the possible effects of outside activities on the objectivity of their decisions, their obligations to the School of Public Health, and the School's responsibilities to others.... In the absence of specific rules (beyond the requirement of consultation), and in light of the difficulty of applying general statements of principle to specific cases, there follows a sampling of activities and situations that may present conflicts on interest or commitment...." *Ibid.*, harvard.

- Another much longer tradition of something like Joint Appointment may be found where free services have been provided by university faculty members through non-university non-profit organizations, such as organizations which provide consulting services for poor individuals or groups of persecuted people or for causes such as unionism or environmental protection. These traditions have not been completely free from controversy. For example, Federal, State and local governments opposed by groups helped by university lecturers, whose salaries are sometimes even paid with funds allocated by the same government from its tax revenue, have in the past sometimes tried to prohibit such work, with much the same sort of restriction as the Ministry of Justice used in Ethiopia. However, in most democratic jurisdictions such self-defensive regulations have repeatedly -- repeatedly because they are so often attempted -- been struck down because such regulations themselves raise very serious conflicts of interest and the benefits of such Joint Appointments to society are so great²⁵.

Thus, the adoption of Joint Appointment, with appropriate narrowly drawn safeguards, may be seen as an advance for a more open and plural society.

- Finally, fee-earning service organizations established by universities, in which full-time university faculty have something like a Joint Appointment, have sometimes been charged with unfair competition by private for-profit organizations in the same business. If the university does not pay taxes on its earnings or obtains interest-free capital or other -- typically regulatory -- advantages, it may be able to compete by

²⁵ E.g., see, the related case in which the US Supreme Court declared unconstitutional federal legislation in which the federal government tried to limit the kind of arguments government-funded lawyers could make on behalf of welfare-receiving clients. "We must be vigilant when Congress imposes rules and conditions which in effect insulate its own laws from legitimate judicial challenge." *Legal Services Corporation v. Velazquez*, NO. 99-603, February 28, 2001.

lowering its prices more than tax-paying and interest-paying competitors, instead of because its services are better due to its superior knowledge²⁶.

However, again, the solution to this problem in developed countries has not been to prohibit such set-ups, but instead, where possible, to regulate them narrowly so that they compete fairly. As a result, the benefits of both the Joint Appointment and competition are available to society, though the balance is not always easy to find.

Conclusions

The following conclusions could be made:

- There will be significant benefits in certain cases from the use of Joint Appointments.
- However, there are issues that must be addressed in the initial adaptation of Joint Appointments, i.e.:
 - determination of whether the person is sufficiently qualified and sufficiently important for university governance, on a part time basis, so that the benefits of Joint Appointment will, therefore, be large enough to offset the additional costs it entails;
 - negotiation and clear statement, either in regulations or contracts, of the amount of compensation to be paid by the university and, conversely, the amount of time and energy to be dedicated by the person to the university; and

²⁶ A related issue arose in Ethiopia when such organizations as the Tigray Development Association invested in for-profit businesses as a way of demonstrating that investment in under-capitalized sectors like transportation could be profitable and, at the same time, as a way of stabilizing revenues. Such investments have been seen as unacceptable unfair competition and such organizations have been forced to sell, where possible, such investments.

- the need to address the appearance of, or real conflicts of interest.
- A careful, pragmatic, empirical approach in many institutions during the initial experimentation with Joint Appointments is likely to work better than a single rigid set of centrally drawn guidelines.
- But some general guidance is possible.

Recommendations

We therefore recommend that, with the following guidance, universities test Joint Appointments carefully and, at least initially, in a small number of key situations where Joint Appointment will be a better solution to a particular hiring situation than any other solution. Thus, the general recommendation is that the concept of Joint Appointment discussed here is one that should be pursued; first, by careful framing of Joint Appointment conditions, and, second, by iteratively dealing with unforeseen consequences in an enlightened manner aimed at optimizing social benefits rather than optimizing ease of regulation.

In order to provide guidance on these general parameters, we suggest the following initial guidance, to be followed by careful recording of experience with Joint Appointments and corrective actions as necessary:

- The university should consider the full range of possible hiring options that will make the knowledge, skills and attitudes of a potential Joint Appointee available to the university. Would full time, Adjunct or part-time status suffice? If not, why not? The probable situations where the answer is "no" involve highly knowledgeable and experienced individuals whose input to university or faculty governance is strongly needed but who are unwilling to give up their other sphere of work, whether public, for-profit or nonprofit.

- Where Joint Appointment is the only way to meet the needs of the university, given the situation of the individual, then the following steps should be completed before the Joint Appointment contract is signed; all steps should be conducted openly and with the full knowledge of the university community in order to set the tone of open sharing of information and to avoid future complaints of unfair dealing.
- The academic qualifications of the Joint Appointee, based on training, experience, research, publications and other special factors relevant to the individual, should be assessed and the rank of the academic individual should be agreed.
- The amount of time and energy and the specific measurable output for which the Joint Appointee will be responsible should be discussed and delineated in writing, including teaching, counseling, research, consulting, administrative and any and all other foreseeable duties. Rights to property that may arise during the Joint Appointment, including particularly intellectual property, should be specifically discussed and the ownership determined. And issues relating to the timing of promotions and tenure while the individual is less than a full-time university employee must be addressed.
- The amount of compensation to be paid for these services should be negotiated. The amount should be between the floor and ceiling determined by multiplying the percent of time the Joint Appointee will work for the university times a) (floor) the regular university salary for a full-time instructor with the agreed academic rank, and b) (ceiling) the average monthly income of the Joint Appointee in the other sphere in which the Joint Appointee will continue to work. In the end, the actual amount of compensation will depend on these negotiations. If the lowest amount that can be negotiated is more than the university can afford to pay from its various sources of revenue, then the Joint Appointment will not be made.

- The terms of disclosure of information necessary to prevent real or apparent conflicts of interest must be negotiated and specified in detail. Again, if the two parties are unable to negotiate terms satisfactory to both sides, then the Joint Appointment should not be made.
 - A clear Joint Appointment contract must be written, specifying all the above information, and also including a) a simple but flexible and fast arbitration clause that will allow disputes or unforeseen circumstances to be dealt with promptly, and b) enforcement provisions that, by contract, give the university the power to terminate the Joint Appointment agreement at will and without delay, to take immediate control of university property -- including intellectual property, and to recover specific or reasonable costs or compensation where justified. Eventually, with experience, the terms of such contracts may be generalized to guidelines or rules.
 - The performance of the contract must be monitored (information must be exchanged regularly and actively reviewed) and evaluated (performance of the terms of the agreement must be assessed). Where performance is not correct, corrections must be specified and if not forthcoming, or if the university is in any way endangered by the circumstance, enforcement must be initiated diligently.
 - Finally, records should be kept with regard to the operation of each Joint Appointment and the university and concerned agencies should review the costs and benefits regularly to determine whether Joint Appointments are being used reasonably and whether the benefits outweigh the costs.
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