Manoj Mohanan:

What if a single clause in your job contract could quietly shape how you are able to get paid, especially after you leave that job? And what if that same contract clause ends up limiting the places you can move for a job? Today, the hidden power of something called a non-compete clause.

A non-compete can be part of an agreement that you sign with a company when you land a job, and it's designed to stop you from working for your company's competitors for a period of time after you leave that job. Well, it turns out new research gives us insight into what this practice actually costs these workers who are facing these non-competed clauses.

Hello, and welcome to Policy 360. I'm Manoj Mohanan, interim dean of the Sanford School of Public Policy at Duke University. And joining me today is one of the authors of this new research, a faculty member here at the Sanford School at Duke, Professor Matt Johnson. Matt, welcome.

Matt Johnson:

Thanks, Manoj. It's great to be here.

Manoj Mohanan:

So, Matt, what is a non-compete clause and why would it find itself in someone's contract in the first place?

Matt Johnson:

So a non-compete clause is a contractual restriction on a worker's ability to move to or join a competing firm. So, for example, if Manoj, I was signing up to work for you, you might present me with an employment contract that may or may not include a non-compete agreement. And if it did, it might say that if I leave, I'm not allowed to go work for one of your competitors for a certain amount of time.

In terms of why these show up, I mean, I guess, one first question is when did they show up? We have just in the last several years just been starting to collect data on how often workers are actually signing these things. It turns out it's kind of hard to know because if any ... As I know with me, I'm not sure I've read every single word in my employment contract. Some of these employment contracts can be pages long, so not everyone knows if they've even signed one. The best guess is about one in five workers in the US, at any given point, are bound by a non-compete agreement. That's, of course, going to vary by different kinds of industries or occupations.

In terms of why, I think the best rationale for a non-compete is that workers and the assets that they have within them, in particular their knowledge, their trade secrets, their knowledge about everything with the production process is something they can take with them. It's not something that lives within the firm.

Manoj Mohanan:

Yeah.

Matt Johnson:

And non-competes are a way for firms to protect that asset.

Manoj Mohanan:

So you and I work in academia. We would never have a non-compete. You could never tell a faculty member that, "Yes, after you leave Duke, you cannot go work at one of our peers." So it seems to me that as we think about non-competes, is there something unique to some kinds of employers or employees that sort of defines where this is more commonly used?

Matt Johnson:

So let me tell you about the sector that I first learned about when I started studying these, hair salons. What actually got me interested in non-competes was an article that I read in the New York Times when I was in graduate school about how non-compete agreements, which I think historically were seen as this thing kind of relegated to very highly skilled, highly paid workers like executives, software engineers, were now making their way into all sorts of jobs. And one of them, I remember the front page was about hair salons.

So I remember the next time I got my hair cut, I asked my barber, said, "Do you have one of these non-competes?" And he said, "Yes." And I was asking about it. And that's one where non-competes are actually pretty common. We did a study that something maybe like a third of hair salons use non-competes. And it may seem surprising, but this is actually a sector where the firms do invest a fair amount in their workers and in particular, things that their workers are going to take with them.

So hair salons, one thing that they do is they train their workers as kind of apprentices in different ways of cutting hair. This can last for anywhere up to a year. Another thing that the hair salons might do is invest money to attract clients. And those two things, the skills about cutting hair and the clients, are things that the workers can take with them.

Manoj Mohanan:

Right.

Matt Johnson:

So I talked to some hair salon owners who mentioned that they spent all this money training workers, attracting clients, and then they got kind of burned when the workers just left and took them with them.

Manoj Mohanan:

Right.

Matt Johnson:

So that's one sector where kind of when firms can make these investments in things that are very important to production.

Manoj Mohanan:

But also unique to the firm. So there's some firm-specific stuff that you're teaching them that they could take elsewhere?

Matt Johnson:

Well, so for instance, but also in general, like, if you own a hair salon and you employ me and you teach me how to cut hair, that is a skill I could take to one of your competitors-

Manoj Mohanan:

Exactly.

Matt Johnson:

... and do exactly there.

Manoj Mohanan:

Right.

Matt Johnson:

Hair salons is one example, but in general, we see these in sectors where there is something really important to production that the workers can take with them. So you see this with software engineers, architects, things where there's some kind of intangible asset that workers are able to transport elsewhere.

Manoj Mohanan:

So would it be fair to then say that these non-competes typically benefit employers more than they benefit employees? Or are there circumstances where employees benefit from having a non-compete in there as well?

Matt Johnson:

Well, upfront it's actually not obvious because there's really a theoretical tension with who, if anyone, we think will benefit from a non-compete. So the best case for them is that if you own a hair salon and you're worried that if you spend this money training me, and then I'm going to learn those skills and immediately jump ship to one of your competitors, you might say, "I'm just not going to spend that money because why would I risk losing it?"

Manoj Mohanan:

Right.

Matt Johnson:

But if you know that I, the worker, am now bound by a non-compete and I can't move so easily, you might say, "Well, now I'm more willing to make that investment." And that's human capital, that's what we call it. If you're more willing to make that investment, we might both be better off because I get the skills, we're both more productive, we all make more money. That's one argument for why non-competes might benefit firms, but also workers by making them more productive.

Now, the other side of that argument is that me, the worker, sure, maybe I have some more skills now, but I've now lost a potentially very important way to increase my wage and salary, that is job mobility. I've lost my ability to find another firm, another hair salon that might pay me more money and go there. I've lost the ability to bargain with you by using that threat of mobility to my favor.

Manoj Mohanan:

Sure.

Matt Johnson:

So that's a scenario where the non-compete might purely benefit you at the expense of me.

Manoj Mohanan:

Right. And thinking about, you started this conversation helping us think about these non-competes as contractual agreements, but contractual agreements need to be enforced. And I can imagine where I'm thinking about the CEO of a tech company having a non-compete and then it's very publicly observable when the CEO moves to another company and you can sue that person. But for a barber, how does that enforcement look like? Like A, who finds out? And second, what are the costs of enforcement of these contracts?

Matt Johnson:

Right. So the costs of enforcing a non-compete ... So let's use our example here. So let's say again, you still own your hair salon, you still employ me, and I've now gone to work for one of your competitors. You could choose to take me to court and say that I violated my contractual agreement. That, of course, is not free. It costs money to go through all those legal proceedings. So you may or may not choose to try to do that to me. Now, that might suggest, oh, in reality, we might expect firms never are going to enforce a non-compete unless it's against a very, very highly paid CEO.

Manoj Mohanan:

Right.

Matt Johnson:

In fact, every year we see cases of all sorts of non-competes being taken to court. So one that made a lot of headlines several years ago was a janitor who I think was making something like $12 an hour, received a job offer at another firm to be a janitor for something like $15 an hour. Took it, and his former firm took him to court.

Manoj Mohanan:

What?

Matt Johnson:

So that might seem crazy. I remember talking to a few hair salon owners and asking them like, "What leads you to actually go and enforce one of these things?" And it could be all sorts of reasons. It could be wanting to set a reputation. Could just be someone feels burned and wants to make good on it. But it's not altogether unknown for these to be enforced in lots of different situations.

Manoj Mohanan:

That is truly surprising. And I can see why sitting in the barber's chair and talking to people at the hair salon would give you all these ideas that never occurred to me because I don't have hair to take to a barber salon. So I'm glad you do and you're able-

Matt Johnson:

We got to find the research ideas where we can find them. Sure.

Manoj Mohanan:

That's right. That's right. Is it true that these policies are enforced or contracts are enforced equally across the country? So does it vary by country, or by state, or how does it vary?

Matt Johnson:

So it varies by state and it actually varies quite widely. So an interesting thing about employment law, which non-competes fall under, is that there's really no federal law that determines some of the laws that determine things like the legal enforceability. There was a recent attempt to try to do that, which we might talk about later, but states basically have their own latitude to set the extent to which a non-compete might be legally enforceable.

And now broadly speaking, if you had ... Again, let's use our example, you had taken me to court for violating my non-compete. We go to court, the judge in general is supposed to weigh the potential benefits of the non-compete, namely in terms of protecting business interests against the cost on the worker. That is true in any legal situation, but because of big differences across states and legal interpretations, public policies, things like that, states just vary widely in the parameters the judge might use to determine those benefits and costs.

Some of this is set by actual statutes. So state legislatures over the last several decades may have passed a law saying a non-compete can only be allowed in this or that situation. More common actually, it's through the process of judicial decisions that have over time changed the common law about how these things work. So, for example, in California, back in the late 19th century, there was a judicial decision that rendered non-competes essentially unenforceable in California. So in almost any situation, if a worker has a non-compete and works in California, that non-compete will never be enforced in court. It's actually also true in North Dakota, interestingly.

In other states, it varies how enforceable it would be. Florida is kind of on the other extreme where in Florida, almost any non-compete will be enforced for any reason. Within there is a spectrum.

Manoj Mohanan:

Right. So I remember from when I was doing a little bit of work in labor econ and grad school days, the idea of job lock was very common. So I study health and in that space, the insurance policies that prevent people from wanting to switch jobs led to frictions in the job market.

It sounds to me that similar variations is something that you would expect to see with different levels of enforcements of non-competes. So is a natural extension of that argument then that you would find labor markets in some states to be actually working more efficiently and not in others? And do you find evidence for that?

Matt Johnson:

We do. I am really glad you said that because I already kind of alluded to one of the contrasting theoretical arguments for what non-competes might do to labor markets. I mentioned how there's one school of thought that says non-competes might raise wages because they get firms to invest more in their workers.

There's another that says non-competes might lower wages because they remove this bargaining chip from worker's toolkit in the negotiating table. But another thing non-competes might be doing is just affecting the general dynamism and fluidity of the labor market for the same reasons you said about job lock. Because another thing a non-compete might do is get me stuck in a job that's just not very well suited to my particular skills. Maybe I'm just not very good at cutting hair in the exact way you want me to in this running example of ours, Manoj. And I might know that I could be more productive elsewhere, in a place that's better suited to my skills, but if I can't move there, then that's actually bad for everyone as well because people are just getting stuck in jobs that are just not the best use of their particular skills. So that absolutely makes sense. And we do, in fact, find some evidence of that, which I'm happy to-

Manoj Mohanan:

Yeah. No, let's talk more about your research and tell us a little bit about the data you used and what kind of data you worked with to answer these questions.

Matt Johnson:

Sure. So I mentioned when I was in graduate school, I was reading these news articles about non-competes. And one of my friends, Michael Lipsitz, who was also in my graduate school cohort, and I, read the same article and we got really excited and said, "Let's do some research on non-competes."

And then we went and looked and there was no data. There was no data on who was signing non-competes, that has since changed a little bit, but there was also just not much data on the legal environment, the policy environment about non-competes. And when we went looking a little bit further, we went down some rabbit holes that some legal scholars had done over the last several years to try to quantify the extent to which different states enforce non-competes in different ways.

And that actually led us to one of our other co-authors, Kurt Lavetti, who had already started this project to build on legal scholars' work to quantify how each state treats non-competes and how this has changed over time. And now when I say we, I really mean that we worked with some very excellent law students at Duke and Ohio State, who combed through, I don't know how many pages of legal text that each year is written by lawyers that just talks about all the different case law and all the different laws that have happened over time, that affect how non-competes are treated in each state.

So the end product of all of that work was a database we created that for about 35-year time period gave us a measure of in any given state and in any given year, how easily could a non-compete be enforced in that state.

Manoj Mohanan:

And did you have variation within sector within the state as well?

Matt Johnson:

So interestingly, all our variation was within state. So I mentioned that a lot of the instances that lead to a change in the legal enforceability of non-competes is due to a precedent setting judicial decision.

Manoj Mohanan:

I see.

Matt Johnson:

So this, to me, is an interesting feature of the legal landscape, so that if you had taken me to court for violating my noncompete and the judge decided to break from precedent saying, "I'm going to break from precedent and say, 'In fact, I'm not going to find this non-compete to be valid because Manoj did not demonstrably give Matt some appropriate, what's called consideration, in this.'" If that decision broke from preceding cases, that would change the law going forward in that state for all sectors.

Manoj Mohanan:

All sectors. That's-

Matt Johnson:

So interestingly, a legal change affects all. Now there is differences across sectors and how frequently non-competes have been used historically, and that is some variation we can use, but the legal environment is common within the state.

Manoj Mohanan:

Yeah. So it occurs to me that there is a little bit of divergence between the theory that you started telling us about versus what we find in the data, because in the theoretical argument you first explained, it seemed like there were some firm specific knowledge stuff that you wanted to predict, but if it's being driven really by state-level legal outcomes of cases and stuff, and then that was going to apply to all sectors, regardless of whether or not there's firm-specific stuff you can take in.

Matt Johnson:

That's right.

Manoj Mohanan:

Which is why probably salons and janitors are getting into trouble versus only the CEOs of tech companies or something like that. Is that fair to say?

Matt Johnson:

Right. And one distinction that's really important to keep in mind is that there's kind of two margins here. One is whether or not I, as a worker, have signed a non-compete, and one is in my state, in my labor market, how easily could a non-compete be enforced? And by extension, how many other workers in my labor market have signed non-competes?

So one thing we very transparently do in our studies, we're only looking at changes in the legal environment. So one thing our analysis is missing is we're not looking at variation in workers across jobs that have and have not signed non-competes. That's just a very hard thing to do because there's just not that much data at the worker level over time. Workers that sign non-competes are very different from those that aren't.

But one thing that really focusing on the changes in the legal environment, how that affects all workers, what that buys us is one thing that we flesh out is that when a state makes non-competes more easily enforceable, that may affect the earnings of workers who themselves have been bound by a non-compete, but also might have these externalities or spillover effects on the rest of the labor market.

So one thing, as you talked about, if a lot of workers in a labor market have a non-compete, that might just generally reduce the dynamism and fluidity of the labor market for everyone, not even the workers who themselves are bound by one. And that's something we find evidence of. We find that when states make it easier to enforce a non-compete, just general labor market churn, general dynamism goes down. And this could have far-reaching effects on earnings, which is something that we find.

Manoj Mohanan:

Wow. So I would have loved to ask, what were your hypotheses before you started this project? But given that you were asking a question that most people hadn't answered in the past, because the data wasn't there even, some of this was clearly exploratory. You were going in there with completely ... Not that you didn't have priors or hypotheses and theories to lead you in, but what surprised you the most in the findings you came across?

Matt Johnson:

The thing that surprised us, I think all three of us, all of the authors the most, was just how far-reaching it seems like these effects of non-competes seem to be. So one thing I was just alluding to is that when non-competes are easier to enforce, I just mentioned how that might affect the earnings of workers who themselves aren't even bound by a non-compete.

One kind of flavor of a test we did to test that was we asked, there's certain what are called local labor markets. The literature calls these commuting zones. So clusters of counties where they tend to be characterized by flows of workers commuting between them.

Manoj Mohanan:

So would the RTP, the triangle area, be an example of that?

Matt Johnson:

That'd be an excellent example of a commuting zone.

Manoj Mohanan:

Okay.

Matt Johnson:

Most commuting zones are contained within a state, like the RTP is all within North Carolina. Some community zones actually span state borders. So the St. Louis Metro area, for example, spans both Missouri, but also Illinois. So some workers live on the Illinois side of the St. Louis Metro commute and vice versa.

Manoj Mohanan:

Sure.

Matt Johnson:

So one test we did is the asset thought experiment. If Missouri makes non-competes more easily enforceable because of a law change, what happens to the earnings of workers on the Illinois side of the St. Louis Metro area? And this is a group of workers who has not seen their de facto or the de jure law, like legal environment change, but they're in a labor market that now might be a little bit less fluid because more workers are bound by these enforceable non-competes or just maybe be less churn.

Manoj Mohanan:

Right.

Matt Johnson:

And in fact, that we find that the earnings of workers on the Illinois side of the St. Louis Metro area are affected, I'm kind of previewing results that we find later, but the earnings and job mobility of workers on the Illinois side are affected almost as much as the earnings and mobility of workers on the Missouri side. So that suggests that there's these very kind of far-reaching spillover effects that reach large groups of workers. That, I'd say, is one of the biggest surprises that we found.

Manoj Mohanan:

That's fascinating because I mean, when you think about workers who are living across state boundaries, oftentimes you're thinking about different tax laws and then the state income tax laws are different across different ... You can often see this, say for example, in New York and New Jersey type of areas. But it's interesting that the laws around non-competes also tend to affect people in their lives and their jobs there.

So do you see people actually starting to move based on that? So if I was affected in the Missouri side of the border, do you start seeing people moving for jobs differently now?

Matt Johnson:

Sure. First, it's worth remembering, going back to the actual signing of a non-compete, what a non-compete does is it restricts a particular kind of a worker's job mobility. So if you've had me sign a non-compete in our running hair salon example, it doesn't say that I can't go work for a university. It says I can't go work for a hair salon. So the particular type of mobility that might be affected is say within sector job mobility.

So one thing that we look at is when states make it easier to enforce non-competes, do we see general worker mobility across firms go down? And in fact, we do. And the particular flavors of mobility that are most affected are job mobility within the same industry is very much affected by the state's non-compete enforceability, as is worker job mobility within the same state or within the same labor market.

So if anything, what you might see that kind of conditional on moving, when non-competes are easier to enforce, workers are more likely to move across state lines when they do move, or maybe move across industry when they do move, which is maybe either reflecting attempting to escape non-competes, or just getting out of a kind of unfluid labor market.

Manoj Mohanan:

Yeah. And if I'm a worker and if I'm going to stay within my state, but now I have to change sectors, does that often mean that I'm going to get affected negatively because I'm moving to a new sector, so now I have to start afresh by proving myself or learning something new? So does that hurt me in that process more than otherwise?

Matt Johnson:

Yeah. So economist speak for this is that many of us over our careers accumulate what we might call occupation-specific or industry-specific human capital. Over time, doing the same thing, the same type of job in the same type of firm, we just learn things that make us better at doing our job and raise our productivity and raise our earnings as a result.

When an individual has to jump ship and find a new career in a different industry and a different occupation, that human capital is lost and having to start over can be seen as a reduction in earnings and just kind of a career detour that can have all sorts of ramifications. That's right.

Manoj Mohanan:

So thinking about all the people who get affected by this, in your research, Matt, did you find that there are some groups that get affected more than others because of the profile of the jobs that are affected, or the sectors, or the states for that matter?

Matt Johnson:

Right. Well, one thing I realize is I haven't even yet mentioned what our headline result is.

Manoj Mohanan:

Oh yeah, please do.

Matt Johnson:

So when we pool all the states that we observe the legal environment for non-competes changing over time, and we look at the earnings of workers, we find that when states make it easier to enforce non-compete agreements, the average workers' earnings go down by quite a significant amount.

Some magnitudes that are useful, maybe, to interpret that are ... So one way to think about our results here is like, imagine moving a worker from a state that enforces non-competes somewhere near the 75th percentile of our sample. So a state that makes it relatively easy to enforce a non-compete. Suppose you move that worker to a state at the 25th percentile, a state that makes it pretty hard to enforce the non-compete. We estimate that worker's earnings, all else equal, would increase by about 2%.

Manoj Mohanan:

So 2% is roughly, like, one year's salary increment of sorts, right? Is that roughly how you would want to think about it?

Matt Johnson:

Yeah, sure. I think that's about right. Maybe a way that's a little more visually apparent to think about that magnitude is, suppose we just, a thought experiment, what if all states just banned non-competes altogether?

Manoj Mohanan:

Okay.

Matt Johnson:

That would be a very extreme policy change. Our estimates imply that the average worker's earnings would increase by about 8%.

Manoj Mohanan:

Wow.

Matt Johnson:

Which is a very big number. If you pool that across the millions of workers in the U.S., that is a lot of money that we're talking about. Now, that is an average estimate. And by the way, that is an estimate that is true in a lot of different states. It's true in a lot of different years. It seems to be very robust.

Now, there's lots of reasons why that might differ across different types of workers, and we do, in fact, find that. So some of this heterogeneity is ... I think I can think about it, there's three types of heterogeneity that we look at. The first of these is, are these effects bigger for the types of workers that are more likely to sign non-competes? So I mentioned that certain occupations, certain industries, certain levels of education, we see in descriptive data, workers are more likely to sign non-competes. So in very highly skilled occupations, college educated workers are more likely to sign non-competes. For those workers, we see larger wage effects. So if anything, the negative effects of non-competes on those workers' earnings is even larger.

Manoj Mohanan:

I see.

Matt Johnson:

A second flavor of heterogeneity we look at is, I mentioned that one reason that non-competes might reduce a given worker's earnings is that they take away that negotiating chip of being able to use job mobility, either realize job mobility or the threat of it to bargain for higher wages.

One very interesting thing we find is that we find that for workers in occupations where we tend to see most job mobility is very concentrated within that occupation. So think about plumbers or even hairstylists, where if they're going to move jobs, it's going to be within their occupation. For those workers, the negative wage effects of non-competes are especially large because the cost of restricting mobility within my occupation or industry is very, very high.

For workers who are in occupations that tend to be very fluid and dynamic across different industries, those, their wage effects are much more muted. So the negative wage effects that we see are really driven by workers for whom restrictions on a specific kind of mobility is really costly.

The third thing we find, which I'll pause and I'm happy to talk about-

Manoj Mohanan:

No, please, go ahead.

Matt Johnson:

... is we can also look at differences across demographic groups. There's various reasons why we might think non-competes might matter more for say, men versus women. There's some evidence out there that men are, for example, more willing to just violate a non-compete and risk it than women are.

Manoj Mohanan:

Imagine that.

Matt Johnson:

Imagine that. Yeah. I wonder where that comes from. But even moreso there's also evidence out there that men are more willing to move long distances or commute long distances for their jobs. So to the extent that non-competes are really limiting job mobility and job options within say, a geographic radius, that might be particularly binding on women's job prospects than for men's.

Manoj Mohanan:

Got it.

Matt Johnson:

So we find that, for example, making non-competes more easily enforceable, particularly reduces the earnings of women over men.

Manoj Mohanan:

Wow. It seems, just going back to an earlier point you mentioned that the overall impact nationwide, if we had a ban on such a practice, on the ban on the non-competes, it would be massive.

So given how salient it is, given the amount of money we are talking about, just like 8% of wages across the country just seems like a staggering amount, why aren't there efforts to try and do this? Is it because of lobbying? Is it because of lack of political will? And have there been efforts? And I believe there have been some, but tell us a little more about where we are and why it's not happening and where we could go with that.

Matt Johnson:

We have seen some recent attempts at this. So I'd say really since around 2015, 2015 was really when non-competes started really entering the ecosystem of public attention. It was when these news articles were popping up about low-wage workers signing non-competes. I mentioned hair salons.

Manoj Mohanan:

Sure.

Matt Johnson:

But also, Jimmy John's had this very infamous case of having their fast food minimum wage workers sign non-competes. Amazon, all sorts of firms were using this. So there had been bills proposed in Congress that never really went anywhere, but interestingly, there were bills proposed both by Democrats and by Republicans. Where we saw the biggest attempt to reform these on a national level is when the Federal Trade Commission in 2023 proposed banning non-competes outright across the whole country, and in 2024 finalized that rule to finalize banning non-competes in the whole U.S. economy.

That rule, I believe was finalized in April 2024. It was immediately subject to litigation by various chambers of commerce and other organizations sued the FTC over the rule. It has since been in kind of legal limbo. It's unclear what its future is, but there were at least some recent federal attempts to try to reform these.

Some of these groups that are suing, say, for example, the Federal Trade Commission, saying that this ban should not be going forward, there's still groups that say that some firms do benefit from non-competes by encouraging investment, and that's something that we could talk about, but it's still very much a question with lots of lobbying going on on both sides.

Manoj Mohanan:

Yeah. Tell me a little bit more about the argument that it increases investments. Is it because that the non-compete protects the intellectual and human capital of the firm and therefore, the firm becomes more ... Is that the argument here?

Matt Johnson:

Oh yes, that's exactly it. And this is something we alluded to a little bit before, but so economists call this that non-competes are solving holdup problems. So I mentioned before that if I had signed up to work for your hair salon and you were reluctant to invest in my skills, my general human capital, or you were reluctant to invest in attracting clients, because you might know that as soon as you attract those clients, as soon as you give me those skills, I'm going to go leave for a competitor. If you, instead having signed a non-compete, you're willing to make those investments, the argument goes that non-competes are good for everyone because they spur that kind of firm-level investment.

And I should say in follow-up work, we actually do find some evidence to support this story. In some cases, when non-competes are more easily enforceable, more easily available to firms, we do find that firms do, in some cases, invest more in these intangible assets like R&D, workers, general human capital. So there is some evidence to this story that non-competes could, in some cases, be leading to these beneficial investments, at least in terms of workers' earnings. What we find at least, is that any extent to which non-competes are incentivizing this level of investment is just being dwarfed by the other ways they're hurting workers' earnings.

Manoj Mohanan:

Fascinating. And I'm so glad you're working on this topic, which is clearly huge. And I hope that the current administration and future administrations will start thinking about what we can do.

So given that you are faculty member at the Sanford School, if you have an opportunity to talk to policymakers today and you're called in to testify on this issue, what kind of advice would you give the government about non-compete clauses?

Matt Johnson:

What I think is clear is that the current status quo is just not really serving anyone. So the current status quo that makes it, at least in most cases, relatively easy to enforce a non-compete, very clearly is hurting workers. I already mentioned how we find across lots of different types of workers, non-compete seem to be reducing wages, reducing job mobility, reducing dynamism. We have some follow-on work showing that the current status quo, non-competes also seem to be reducing innovation and patenting. So lots of different aspects of the labor market and the rest of the economy seem to be being negatively affected in the current environment.

Now, one logical conclusion that might be non-competes seem to be having a lot of negative effects, maybe we should outright ban them. That has been met with lots of resistance I mentioned federally already. I know the state of New York, either two years ago, I believe, was considering banning non-competes for certain groups of workers. I think maybe workers earning more than $100,000. And that also received fierce pushback by certain sectors in New York.

So what I'd say is, I think it's very clear that there should be a higher burden of proof to enforce a non-compete agreement. I'm not completely convinced yet that they should just be outright banned. That may be the right move, but I'd say the evidence definitely suggests that firms should have a higher burden of proof. So that could mean firms just have a higher burden of showing that the non-compete really is truly protecting an asset that is essential to production. Maybe it's incumbent on a firm to really show that by having a worker sign a non-compete, they ensured that worker was compensated in some ways, it's called consideration.

So I'd say at the very least, there are very, what I'd say, clear implications from the evidence that we can make uniform increases in the extent to which firms, again, have to have that burden of proof to enforce one.

Manoj Mohanan:

That's fascinating. And I hope that if any policymakers are listening in, they will take that advice and reach out to you to work more on this.

Matt, thank you again for joining us today. This has been such an important conversation. I learned so much, and I'm really glad that you're working on this topic. Matt Johnson is the Bruce L. Payne Associate Professor of Public Policy at the Sanford School of Public Policy here at Duke University. We have a link to Matt's research in our show notes. Thanks, as always, to the Masters of Public Policy student, Robert Ganzert, who's volunteering his time here as a researcher and writer on our podcast this semester. We'll be back soon with another conversation. I'm Manoj Mohanan.