**Testimony before Standing Committee on Social Policy regarding Bill 3 –
An Act respecting transparency of pay in employment**

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Good afternoon.

It is an honor to appear before this Committee to comment on Bill 3 on pay transparency.

I'm Sarah Kaplan and I am a Professor of Strategy and the Director of the Institute for Gender and the Economy at the Rotman School of Management at the University of Toronto. In this role, I promote the use of rigorous academic research to inform policy and practice, which is particularly important in the realm of gender and diversity where many common beliefs are not actually supported by data and may end up getting in the way of progress. One such area is indeed the gender wage gap.

In this light, I'd like to say a bit about what we know about the sources of the gender wage gap. When people hear that term, they often imagine that this is coming from women being paid less than men for the same job. Of course, there are many high-profile cases such as the 2017 settlement of a human rights claim against the LCBO for paying the (mainly female) part time retail workers less per hour than the mainly male full-time workers. However, research shows that in aggregate, the violation of equal pay for equal work accounts for only a small part of the total wage gap or about 4%, where women earn 96 cents for every dollar a man earns. Now even that amount is unacceptable, and – accumulated over a lifetime – can create substantial gaps in savings. However, there are other more important factors at work.

The state of the art research suggests that the majority of the wage gap opens up around the time of the birth of the first child, and this is the case even in some of the most gender equal societies such as in Scandinavia, where their wage gap is stuck at about the same as ours (88 cents when comparing hourly wages of full-time workers). Why would this be? The evidence suggests that even if women return to the workforce after having children, they often switch careers to a job that will allow them more flexibility to cope with responsibilities at home. This is the case because women still perform much more care work and are expected to put caring over career (in Ontario, according to StatsCan, women do 50% more work at home than men). Thus, if a woman were in a client-facing role before, she might move into an internal role; or she might switch from a corporate job to a government or non-profit job. And, these jobs are often paid less than the jobs that men can maintain even after they have children. Most of the wage gap can be explained by this career-switching effect.

The other "wage gap" number you have heard, for example from Minister Flynn at the 2nd reading of this Bill, is 70 cents. This is the number you get when you compare the weekly wages of all working women and men: it's lower than the 88 cents because many more women work part time. Again, what accounts for that difference in part-time work? It is because women are expected to do more care work.

And, whether it is career-switching or part-time work, there is no pay transparency law that is going to fix these largest sources of the wage gap. What has been shown to help is comprehensive state-supported childcare, equal parental leaves for men and women, and changing expectations at work and at home about the division of care work.

That being said, let me comment on what Bill 3 might be able to accomplish.

First, we should recognize that the Province of Ontario already has world-leading pay equity legislation which covers many more organizations (both public and private and all the way down to those with 10+ employees) than those contemplated at the introduction of this Bill. Many of the pay transparency provisions that served as benchmarks for Bill 3 – such as in Germany, Australia or the UK – are occurring in jurisdictions that did not already have the excellent existing legislation that we have. And, their provisions are not as effective or targeted as those which we have in place. If you review the company reports coming out of the UK, you will learn that, for example, The Royal Bank's UK operations have a 30-60% wage gap. But, those reports don't tell us anything about pay. Instead, they simply show that RBC (and most of the rest of the companies reporting) have few women in top jobs.

The Ontario Pay Equity Act is already quite comprehensive. The most important weakness is that there is no reporting requirement, so enforcement is primarily audit- or complaint-based. Quebec, which implemented similar Pay Equity Legislation to ours in 1996, has added a reporting requirement. To my view, implementing reporting and enforcement within the Pay Equity Act framework is a smarter, more efficient, lower cost solution for all parties including the government, employees and employers. I worry that the proposed approach for reporting and enforcement in Bill 3 will confuse employers and put unnecessary additional burdens on them. We already have more than 30 years of expertise, tools, techniques and capabilities in implementing pay equity in organizations through the Pay Equity Office. Shouldn't we build and reinforce those capabilities rather than creating a separate system that is not fully aligned with the existing Act?

A further challenge we face in the Province is that enforcement of Pay Equity is separate from enforcement of equal pay for equal work (the former occurring through the Pay Equity Office and the latter through the Ministry of Labour). Because these two aspects of the gender wage gap are so tightly intertwined, I would also recommend that enforcement be brought together under one roof.

A question then remains as to whether or not the reporting should be public. There are two possible reasons that reporting might work to change organizational behavior. The first, is to "name and shame" companies into action. However, this is the same logic applied by the Ontario Securities Commission in its "comply or explain" rules for disclosing numbers of women on boards. That regulation has been in place for 3 years and – despite a lot of press coverage – we have seen very little movement in the numbers over that time.

The second reason for reporting is that it would help organizations diagnose their specific issues and make targeted changes. This is the area that I believe would be the most effective; however, doing this does not require that the reports be made public. It would be enough to report the information into the Pay Equity Office who would then be able to engage more productively with organizations that are not in compliance. I worry that public reporting might force organizations to focus more on the PR aspects rather than on looking hard at the issues and fixing the problems.

In short, I believe that the goals of the current version of Bill 3 are laudable but we would be much better served as a Province by using these energies to amend the current Pay Equity Act to include reporting and expand their scope for enforcement. Of course, this would need to come with adequate funding.

I am happy to comment about other provisions of the Bill in the Q&A. I would like to conclude, however, with a note that these gender wage gap figures, whether they be 96 cents or 88 cents or 70 cents are average numbers and disguise even more substantial gaps for women of color, indigenous women, LBTQ women, women with disabilities and also gender non-binary people. So, I would encourage any legislation and subsequent regulations to keep these important intersections top of mind.

Thank you very much.