


Bill S-215:

An Act to amend the criminal code (sentencing for violent offences against Aboriginal women)


A bill to protect Aboriginal female persons

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Aboriginal women are at a greater risk for violence.

- AW are 3-4X more likely than other women to be assaulted or murdered.
(Stats Canada, RCMP, NWAC)
 - Being Aboriginal is a risk factor for violence for females but not for males.
(Stats Canada 2016)
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The overall intention of bill S-215



- is to decrease the well documented violent over-victimization of Aboriginal females.






Intention of Bill S-215

- To ensure fairness in sentencing when the victim of an assault or murder is an Aboriginal female person.
 - To denounce and deter the violent victimization of Aboriginal females.
 - To increase the safety of Aboriginal girls and women.
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- Unfortunately Aboriginal women can be seen as less worthy than 'White' women in court proceedings.
 - Thus, when an *AW* is the victim, an offender may get a lighter sentence.
 - Naming Aboriginal females as an aggravating circumstance will help correct this unfairness in the justice system.
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Some examples of unfair sentencing when the victim was an Aboriginal female

● Historic cases


- Helen Betty Osborne (MB)
- Pamela George (SK)
- Tisdale rape case


● Horrific recent cases:

- Cindy Gladue
 - Unnamed AW – Judge Robin Camp
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Rationale for bill S-215

- 1. The national crisis of MMAWGs.
 - 2. Fulfilling equal benefit & protection of the law for AWGs guaranteed by the Charter of Rights and Freedoms.
 - 3. Fulfilling protection of AWGs from violence as guaranteed by the UNDRIP.
 - 4. Gaining the same type of protection in the CC granted to other Canadians.
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Bill S-215


- Names Aboriginal (FNMI) female persons specifically as an aggravating circumstance in sentencing their offender in cases of assault or murder.
 - It amends sections 239 and 273 of the Criminal Code to add Aboriginal female person as an aggravating factor in sentencing offenders.
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Intention of Bill S-215

The overall intention is to help **prevent** Aboriginal women and girls from being victims of violent acts and being murdered.


The courts will be instructed to consider Aboriginal female identity as an aggravating circumstance or factor, when sentencing offenders for murder and assault, including sexual assault.







Some Examples of Aggravating factors for victims under s718.2 of the CC

- age, race, sex, religion, sexual orientation (hatred, discrimination of)
 - the Elderly (exploitation of)
 - Minors (abuse of)
 - Spouses (abuse of)

 - **Transgender persons, bill C-16**
(undergoing parliamentary review)
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Recent analogous examples of bills aimed at protecting people or animals

- 1. Bill S-221 protects Public transit workers against assault.
 - 2. Bill C-36 protects the Elderly from exploitation.
 - 3. Bill C-35 protects Service animals from violent acts.
 - 4. Bill C-16 – new, under review - protects transgender individuals
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One example: Bill S-221


- Amended the assault section of the CC to add “**public transit operators**”, such as taxi drivers, as an aggravating factor.
 - Rationale: they are targeted for assault and have a high homicide rate.
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The homicide rate for Aboriginal females is even higher than for taxi drivers and police officers



Taxi driver	3.2
Police officer	2.6
Aboriginal female	4.8






From my 2nd reading speech, Jan 27-2016



- “Colleagues, ... we have amended the criminal code to make special provisions to protect public transit operators, such as taxi drivers, and service animals, such as police dogs.
 - **If we can make special provisions for them, then surely we make special provisions for Aboriginal female persons.”**
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- Bill S-215 will amend the criminal code in the same manner as bill S-221.
 - Bill S-215 adds Aboriginal female person as an aggravating circumstance in the same manner as S-221 added public transit worker as an aggravating circumstance.
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The expected outcomes of this bill

- 1. Sentencing of offenders will be more equitable, as Aboriginal female victims will be seen as inherently worthy and in need of protection.
 - 2. The bill would send a strong message to all Canadians that violence against Aboriginal women is denounced.
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- 3. This will deter potential offenders who may think they will get more lenient sentences by targeting Aboriginal women.
 - 4. Offenders may get longer sentences or may be sent for rehabilitation or alternatives to prison.
 - 5. Public safety will be increased.
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Effect of S-215

When an offender is found guilty under sections 239 and 273 of the CC, and the victim is an Aboriginal female person,

the judge must consider her identity as an aggravating circumstance.







Interaction of S-215 with s718.2(e)

All offenders guilty of assaulting or murdering an Aboriginal female are subject to s718.2(e) though the unique circumstances of Aboriginal offenders may warrant a different sentence than non-Aboriginal offenders.


While this may appear as though there are 2 classes of offenders, the unique circumstances - the Gladue factors - justify any difference in sentencing.


For serious crimes like assault & murder, the Gladue factors may make no difference in sentencing






s718.2 (e) of the CC


- states that:
 - “all available sanctions, other than imprisonment, that are reasonable and consistent with the harm done to victims and to the community, should be considered for **all** offenders, with particular attention to the circumstances of Aboriginal offenders.”
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- The 'Gladue' factors such as poverty, racism, loss of cultural ID, attendance at a residential school are to be considered during sentencing.







Recent examples where the Aboriginal female identity of an assault victim was given specific consideration

- 1. R vs Peter
 - 2. R vs Neashish
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Conclusion

- Given the national crisis of MMAWG, it makes sense to instruct judges to consider Aboriginal female identity as an aggravating circumstance when they are victims of assault or murder.
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Stats Canada reported in June 2016 that simply being Aboriginal was a significant risk factor for violence for females but not for males.

As many of us knew intuitively, we now have statistical evidence that we were right.

Simply being an Aboriginal female is a risk factor for violence.

Bill S-215 will help reduce that risk.



