

Bill S-215:

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

A bill to protect Aboriginal female persons

Senator Lillian Eva Quan Dyck, PhD, DLitt


www.sen.parl.gc.ca/ldyck/

AFN Annual General Assembly July-2016







Rationale for bill S-215

- 1. The very high numbers of MMIWG.
 - 2. Fulfilling equal protection of the law for IWGs guaranteed by the Charter of Rights and Freedoms.
 - 3. Fulfilling protection of IWGs from violence as guaranteed by the UNDRIP.
 - 4. Gaining the same type of protection granted to other Canadians.
- 






The 'Rights' Rationale


- 1. It is obvious that Aboriginal women are far more likely than other Canadian women to be victims of violent assaults and be murdered.
 - 2. Thus, they have not received the equal protection of the law guarantees under s15 of the Charter of Rights and Freedoms.
 - 3. Bill S-215 is meant to enhance the protection of AWGs.
- 



My proposed legislative action: bill S-215

- A concrete action that can be done now.
 - We don't have to wait years until the inquiry is completed to take action.
 - It will amend the criminal code to require the court system to take into account the fact that AWGs are much more likely to be victims of violence and consider their identity, as Aboriginal females, as an aggravating factor in sentencing the offender.
- 


- 
- It is likely that Aboriginal women are 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 correct this unfairness in the justice system.
- 




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.






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.
- 




Aggravating factors


- Are relevant facts and circumstances that increase the severity or culpability of a criminal act.
 - AFs are considered by the jurors and judges during sentencing.
- 




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

- Bias, prejudice or hate based on age, race, gender, religion, sexual orientation.
 - Victimizing the Elderly
 - Abuse of minors
 - Spousal abuse

 - Under consideration: Transgender persons, bill C-16
- 





Recent analogous examples of bills 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.
- 



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.
- 




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.”**
- 


- 
- 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.
- 




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.
- 

- 
- 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
- 




The Criminal Code has provisions to reduce the over-incarceration of all offenders, with specific attention to **Aboriginals.**


- Section 7818.2(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.”
- 

- 
- The 'Gladue' factors such as poverty, racism, loss of cultural ID, attendance at a residential school are to be considered during sentencing.
 -





Basically, Bill S-215 is meant to reduce the over-victimization of Aboriginal females

- By making Aboriginal female person an aggravating circumstance that must be considered during sentencing for the offences of assault or murder.
- 

Please support bill S-215:

Let's remember and honor our MMIWG by taking action to protect them in our laws



ᐱᐱᐱᐱᐱᐱᐱᐱᐱ


kiskisitotawātānik
ᐱᐱᐱᐱᐱᐱᐱᐱᐱᐱ
(let's remember them)

aniki kākeyōtinechik
ᐱᐱᐱᐱᐱᐱᐱᐱᐱᐱᐱᐱ
(those that were taken)

aniki kāki-wānīhichik
ᐱᐱᐱᐱᐱᐱᐱᐱᐱᐱᐱᐱ
(those that are lost
because
they went missing)

#Cree101





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 case:

- Cindy Gladue
- 