


Bill S-215:
a bill to protect Aboriginal female
persons

Senator Lillian Eva Quan Dyck, PhD, DLitt
www.sen.parl.gc.ca/ldyck/

FSIN Spring Assembly, N. Battleford, May 25-2016



Liberal govt launches MMIWG inquiry

Dec 2015

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Indigenous and Northern Affairs Minister Carolyn Bennett (C) announced the first steps for her government's promised inquiry into missing and murdered indigenous women Tuesday afternoon in Ottawa.

Photo Credit: (CBC News)


Canada launches inquiry into murdered and missing indigenous women



By [Levon Sevunts](#) | english@rcinet.ca


Tuesday 8 December, 2015 , [No Comments](#) ↓




Rationale for bill S-215

- 1. The high numbers of MMIWG
 - 2. Analogous bills protecting other people
 - 3. Fulfilling equality rights guaranteed by the Charter of Rights and Freedoms
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- It is clear that Aboriginal females are over-victimized.
 - They are at least 3-4X more likely than non-AW to be assaulted, murdered or made missing. (eg. RCMP report)
- 



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 AW, as an aggravating factor in sentencing the offender.
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Saskatchewan senator introduces bill for missing and murdered aboriginal women

Senator Lillian Dyck's bill would make being an aboriginal female victim an aggravating circumstance

CBC News Posted: Jan 27, 2016 10:19 PM CT | Last Updated: Jan 28, 2016 7:23 AM CT



Senator Lillian Dyck says her bill would send a signal to Canada about the value of indigenous women's lives. (CBC)

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A Saskatchewan senator has introduced a bill to help protect aboriginal women and girls.


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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 assault, sexual assault and murder.








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

- Bias, prejudice or hate based on age, race, gender, religion, sexual orientation, etc.
 - Victimizing the Elderly with health or \$ difficulties
 - Abuse of minors
 - Spousal abuse
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- 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.
- 




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
- 



Bill S-215


- Names Aboriginal women VICTIMS specifically as an aggravating circumstance in sentencing their offender in cases of assault or murder.
- 




Bill S-215

- Amends sections 239 and 273 of the Criminal Code to add Aboriginal women as an aggravating factor in sentencing offenders for murder, assault or sexual assault.







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, these are recent examples in which 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 '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.
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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
- 



The legislative timeline


- Bill S-215 is in the early phases of legislative review.
 - 2nd Reading speeches – myself, Conservative Sen Tannas spoke in support (May 12).
 - Sen Lovelace Nicholas and Sen Sinclair will speak in support of it in June.
 - Timing of Next steps unclear.
 - Months and months....
- 



**s718.2(e) of the Criminal Code
is meant to reduce the over-imprisonment of
Aboriginal offenders**

“(e) 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.





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 assault or murder.
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