

RESEARCH ARTICLE/ARAŞTIRMA MAKALESİ

Analysis of stalking as a risk factor for intimate partner femicide in Turkey

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Abstract

The aim of the study is to reveal the picture of femicide, which continues to exist as a current problem in Turkey, and to analyze the stalking elements that manifest as a serious threat before the murder. This study is based on the data provided from "Anıt Savaş / The Monument Counter".. The "Anıt Savaş" is a platform that was established on the internet to keep alive the memory of women who died due to violence against women in Turkey, and contains daily updated news on femicide. The women victims have been analyzed under several criteria such as whether they were faced to stalking, by whom the stalking was carried out, which stalking behaviors were, and whether there was a restraining or protection order. As a result the investigation of 1250 femicide in total for the years 2019, 2020 and 2021, it was encountered that 102 women were subjected to being stalked before they were killed. 65% of women exposed to stalking were stalked by a spouse/boyfriend/partner or ex-spouse/ex-boyfriend/ex-partner, and 15% of by someone they knew. It was observed that 22.5% of the 102 women who were subjected to stalking had a restraining or protection order. Most of the women were subjected to stalking by being followed and threatened. As a result, it can be said that the murdered women were subjected to stalking beforehand, this situation constitutes a risk factor for femicide, and the restraining or protection order were insufficient. At this point, it can be stated that policies and practices developed with a holistic approach towards stalking and femicide are important for a solution.

Keywords: Femicide, Stalking, Stalker, Victim, Perpetrator.

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1. INTRODUCTION

Violence against women can be encountered in many different forms. Women are faced to physical, sexual, psychological and economical violence. Although, they tried to escape from this cycle of violence, unfortunately sometimes they cannot be manage to do this.

Among the different forms of violence against women, one of the worst form is femicide. Some of the risk factors that encountered for femicide are physical violence, sexual violence, drug abuse, divorce. In addition to this, some studies showed that stalking is also another serious risk factor for femicide. In this context; this study aims to reveal the importance of stalking as a risk factor for femicide. First of all, we will approach this subject through conceptual and legal perspectives. Following to this we will discuss the aim, methodology and results of our study.

2. DEFINATIONS

2.1. Femicide

World Health Organization (WHO) defines murdering women just simply because of being women as 'femicide' (WHO,2012). In generally, the definition of femicide can be seen as a result of violence against women, however there are some literature findings that expanded the definition to any act that resulting in the death of a woman as femicide (Taştan & Küçüker Yıldız, 2018).

WHO lists the points that distinguishes the femicide from other murders as follows:

- In most cases the perpetrators were husbands or ex husbands.
- Threats, abuse and intimidation at home
- Sexual Violence
- Situations where women have less power and financial resources

When we examine the literature, it has been seen that the concept of 'femicide', which is considered as the murder cases of women is classified under certain categories. The most fundamental classification was done by Desmond Elis and Walter DeKeserdy in 1996:

1. Intimate Partner Femicide: Femicide carried out by husbands, ex-husbands, partners and ex partners, boyfriends.

2. Familial Femicide: Femicide carried out by father, step father, siblings, step siblings, uncle, grandfather and father-in-law.

3. Femicide by Acquaintance Perpetrators: male member of the family, acquaintance of the family, male authorities (teacher, employer)

4. Femicide by Unknown Perpetrators.

According to the literature review of risk factors that leads to Femicide follows that women's alienation towards her controlling partner, perpetrator's access to the weapons and use of weapons, having threatened the woman with a weapon before, stalking behavior, forcing woman to sexual intercourse, abuse of woman during pregnancy, having a child from another partner, physical abuse, unemployment, drug use, separation or divorce that initiated by woman , customary and traditional marriage, underage of women (Campbell et.al., 2003; Wilson & Daly, 1998; Block, 2000; Gardner, Dawson & Crawford, 1998). Along with these risk factors, it should be noted that the perpetrator's previous criminal history is also an important risk factor.

2.2. Stalking

Stalking comes from the hunting term and means approaching and catching the prey (wild animal) without it's notice. In interpersonal relations, this word is used for explaining that a person is followed (tracked) and harassed by someone else, even though he or she does not desire it.

Meloy (1998) defined stalking as; persistent, malicious and repetitive pursue of someone and harassment of the person whose security is threatened. According to Spitzberg (2002), stalking is the deliberate, repetitive, undesirable, and fear-pressing tracking or harassment of a person.

Although there are many similar definitions for stalking, in its broadest sense, Stalking is defined as all of the disturbing and intimidating behaviors that are repeated against a specific person, that take place against that person's consent and cause the person to feel abused, threatened,

helpless and afraid. In short, stalking can be expressed as all of the disturbing and intimidating behaviors that cause one to worry about their safety.

Stalking behavior that can cause fear and anxiety in the victim includes a wide range of behaviors ranging from seemingly innocent behavior to brutal murder (Akduman, Ünsalver, Cavlak, Oral & Cansunar, 2006). The most common stalking behaviors are pursuing the victim, spying on victim's house and work place, to seen/appear around the victim's house and workplace, persistent phone calls or messages to the victim, threats, sending unwanted or threatening gifts, physical or sexual assaults, cyber stalking.

With the changing world, the spread of technology has become inevitable and the internet has recently become a favorite tool of the stalkers. Because the internet offers them many victim candidates and makes it easier to reach their victims. Considering the common definitions, cyber stalking is defined as using electronic communication, mobile phones and the Internet to intimidate, threaten, harass and bully the victim.

Ellison and Akdeniz (1998) divides cyber stalking in to two as directly and indirectly. Direct Cyber Stalking is the use of pagers, mobile phones and e-mails to send insulting messages, threats and sexually explicit conversations to the victim. It is the most used form of cyber stalking. Indirect Cyber Stalking is exposing the victim by spreading hate messages, threats, or false rumors about him/her. (Ellison & Akdeniz, 1998).

3. LEGAL DIMENSION

3.1. Femicide

According to Article 81 of the Turkish Criminal Code (TCC) No. 5237, a person who intentionally kills another person shall be punished with life imprisonment. In Turkey, as in many other countries, femicide is not a separate crime category. However, in Article 82 of the TCC, it is stated that the perpetrator shall be punished with aggravated life imprisonment if the crime is committed against a woman.

3.2. Stalking

The first legal regulation on stalking was the Law on the Protection of Victims of Stalking, which was regulated in California in 1990. The incident that brought this arrangement to the agenda is the murder of an actress named Rebecca Schaeffer in America by a fan (Uysamaz and Akdag, 2015). After this regulation, legal regulations regarding stalking have been introduced in many states of the USA and many European countries.

In our country, Law No. 6284 was put into effect on 20.03.2012. According to the first article of this law, the purpose is to regulate the procedures and principles for the protection and prevention of violence against women, children, family members, and stalking victims who are subjected to violence or are in danger of violence (Uyuzmaz-Akdag, 2015).

The Regulation on the Implementation of the Law to Protect Family and Prevent Violence Against Women is referred to as "Stalking" and is defined as follows: Stalking: Regardless of the existence of a family relationship or connection, the behavior expressed by the perpetrator of violence towards the victim of violence, in a manner that causes physical or psychological fear and helplessness, including any form of action, spoken, written, or use of any communication tool, and any behavior that puts pressure on the victim.

The crime of stalking is a special form of the crime of disturbing the peace and tranquility of individuals.

3.2.1. Stalking in the Turkish Criminal Code

The crime of stalking was added to the Turkish Criminal Code with the "Law on the Amendment of Certain Laws Including the Turkish Criminal Code No. 7406" published in the Official Gazette on May 27, 2022. The crime of stalking is included as an additional article 123/A in the Turkish Criminal Code's article 123 regarding the disturbance of peace and tranquility. The crime of stalking, regulated under article 123/A in the Crimes Against Freedom section of the Turkish Criminal Code, is defined as persistent physical or verbal pursuit, or contact attempts

using communication and information systems or third parties, causing a serious disturbance or fear for one's safety. The perpetrator can face a prison sentence of 6 months to 2 years as stated in the article. The article also includes a provision for a qualified form of the crime in its second clause. In this context, the crime is considered qualified if committed against a child or a separated or divorced spouse, causing the victim to change their school, workplace, or residence, or causing them to quit school or work. The perpetrator can face a prison sentence of 1 to 3 years. According to article 123/A-3, investigation and prosecution of stalking is dependent on a complaint.

There is not a single definition agreed upon within the scope of legal science on the concept of stalking. However, the insistence is followed when attention is paid to the generally accepted criteria: "There is a fear of the security of a legally protected right, which is carried out persistently by the perpetrator against himself or his relatives, by means of communication, by means of communication, verbally, by action or by any other unlawful act, even though the victim does not want it. causing, disturbing or threatening acts". (Cakmut Yenerer, 2021)

Since the enforcement of Article 123/A of the Turkish Criminal Code (No. 5237), behaviors that constitute stalking are now considered a separate crime. According to the justification of the article, the purpose of this regulation is to impose appropriate sanctions against those who carry out behaviors that constitute stalking before a more severe violation is committed against the victim's material and mental personality or body integrity. The goal of the regulation, as stated in the justification, is to effectively combat the situation by detecting stalking behaviors before acts of violence, especially against women, and to protect the victims. (Turkish Grand National Assembly (TGNA), 2022)

In the literature, the aim of treating stalking as a standalone crime with the implementation of Article 123/A of the Turkish Criminal Code (TCC) No. 5237 is to protect the freedom that allows individuals to live independently from third parties. (Sen & Serdar, 2022) According to the reasoning behind the article, the aim is to provi-

de an appropriate sanction against the acts constituting stalking before a more severe violation is committed against the victim's personality or physical integrity. (TGNA, 2022) Additionally, the objective of the regulation is to effectively combat the situation when stalking occurs before acts of violence, particularly against women, occur and to protect the victims by detecting the situation. (TGNA, 2022)

In conclusion, it can be said that multiple legal interests are protected by the crime of stalking. It is a crime that protects not only the inviolability of a person, but also the legal interests of the victim, such as their health, privacy, and home inviolability, among others because it can be committed with many actions. (Turkoglu, 2019) In the theory, it is stated that the classification of crimes is made according to legal issues, and therefore, stalking is regulated under the section of crimes against freedom in the TCC, indicating that the legal value protected by this crime is the freedom of the individual. Moreover, the place where the crime is regulated in the law shows that the lawmaker considers the freedom, peace, and security of the individual as the values violated by this crime. (Ozar, 2022)

The crime of stalking does not show any characteristics in terms of the perpetrator, since the perpetrator can be anyone regardless of gender. (Turkoglu, 2019) While the perpetrator of stalking crime can be anyone, when the current cases are examined, it is understood that the perpetrator is usually someone who knows the victim and has a long or short historical relationship with him. For this reason, the perpetrator is usually the victim's fiancé, ex-spouse, lover, work or school friend, neighbor, student, patient, or client. In addition, sometimes the perpetrator does not know the victim, but there may also be a person who is platonically in love with her. (Cakmut Yenerer, 2021) Although women may be the perpetrators of stalking crime, it is stated that men are generally the perpetrators and women are the victims of stalking crime. For example, 75-80% of stalking crimes committed in America are committed by men (Dogan, 2014).

Since the victim of the crime of stalking can be anyone, regardless of gender, the crime of stal-

king does not show any feature in terms of the victim. (Turkoglu, 2019)

The stalking crime has three main components in the literature, which are: persistent movements, the intention of the perpetrator, and the effect of the perpetrator's actions on the victim. The stalking is a deliberate and linked set of actions. The two deliberate actions that constitute the material aspect of the crime are: persistently following someone physically, and persistently trying to contact someone by using communication and information tools, or by using third parties. If both deliberate actions occur simultaneously, there won't be two crimes, instead, it will be a single, completed crime. It won't be possible to commit this crime without carrying out any other action besides the one described in the law, as a result of the deliberate actions. The founding element of both deliberate actions is "persistence". In legal terms, persistence is defined as "performing actions that contravene someone else's opposing will consciously and without regard". There is no clear regulation in the TCC regarding how many times an action needs to be repeated in order to be considered persistent. It is accepted that the presence of persistence in action is determined based on the specific characteristics and unique conditions of each event. The stalking crime is a crime that can be committed with action, as most crimes that can be committed with action are committed by the perpetrator's positive action. (Ozar, 2022; Turkoglu, 2019)

The crime of stalking is a crime of consequence and a crime of harm. The result of the crime is expressed as "a serious unease" in the victim or "concern for the safety of himself or one of his relatives". Acts that lead to consequences may not be unlawful acts alone. However, as a result of persistently doing these behaviors, these actions lead the victim to uneasiness or anxiety. Therefore, in order for the crime of stalking to occur, it is sought for the victim to have these results or consequences. This situation will only be determined by revealing the causal link between the action and the result. (Ozar, 2022)

General caste is necessary for the stalking crime to occur. In order for the stalking crime to occur, the elements in the legal definition of the crime must be intentionally and willingly carried out by the perpetrator. Therefore, if the actions that will cau-

se a person to feel concerned about their safety are carried out persistently, intentionally, and willingly by the perpetrator, and if the perpetrator's intent also includes the result, the crime of stalking will have occurred. (Turkoglu, 2019) Crime can also occur with possible caste. It does not matter for what purpose the perpetrator performs the act in terms of the occurrence of the crime. (Ozar, 2022)

The aggravating circumstances that would result in increased punishment for the crime of stalking are outlined in the second clause of Article m. 123/A, in three items. In short, these circumstances are: Committing the crime against a child or a spouse who has been divorced or separated, causing the victim to change their school, workplace, or home or to quit their school or work, committing the crime by the offender who has been ordered to stay away or not approach the victim's home, school, or workplace.

If a perpetrator who has the qualifications required by the law and another person who does not have these qualifications have carried out the actions that constitute the crime together, the person who is a special perpetrator will be responsible for the qualified state and the other person will be responsible for the basic form of the crime. The follow-up of both the basic form and the qualified forms of the crime is connected to the complaint (Ozar,2022).

4. METHODOLOGY AND RESULTS

4.1. Aim of the study

The aim of this study is to reveal the picture of femicide, which still exists as a problem in Turkey and to examine the elements of persistent stalking that manifest as a serious threat before the femicide.

4.2. Methodology of the study

Our study is a qualitative research and a situation analysis has been made. The source of this study is "Anıt Sayaç", a platform established over the internet in order to honor the memory of women who died of femicide in Turkey. The platform contains news details about every femicide case and updated every day. In this context, the cases between 01.01.2019-31.12.2021 were examined. A total of 1250 femicide cases were analyzed according to the following criteria:

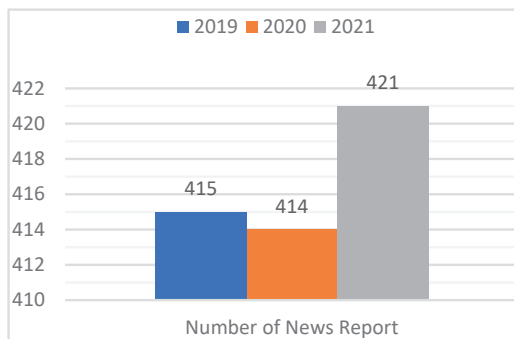
- Distribution of femicide cases throughout the years
- Presence of stalking behavior prior to the murder
- Identity of the Stalker
- Whether there is a restriction or protection order
- How does the stalking occurs

4.3. Results

In our study, 1250 femicide cases were identified. 33 of 1250 murder cases are recorded as “unidentified”. These 33 murder cases, which were recorded as uncertain, were not included in the analysis phase.

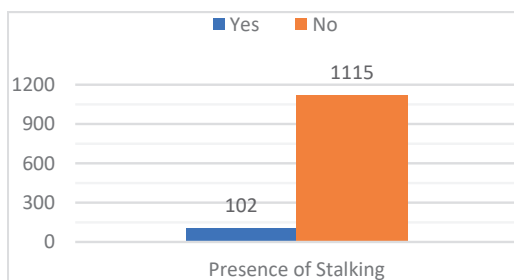
When analyzed on a yearly basis, it has been seen that the number of femicide cases reflected in the media has not decreased, but increased. 415 femicide cases were detected in 2019, 414 in 2020, and 421 in 2021 (Figure 1).

Figure 1. Distribution of i news reports throughout the years



When we leave out 33 unidentified cases in our news analysis; Stalking was detected in 102 of 1217 murder cases (Figure 2).

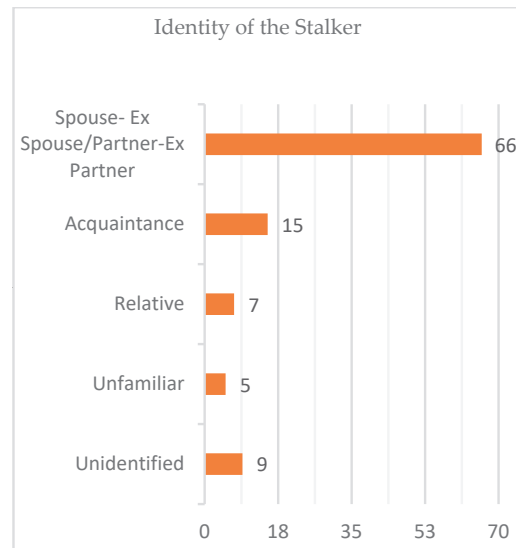
Figure 2. Presence of stalking



When we examined 102 cases in which there were elements of stalking before the murder, it

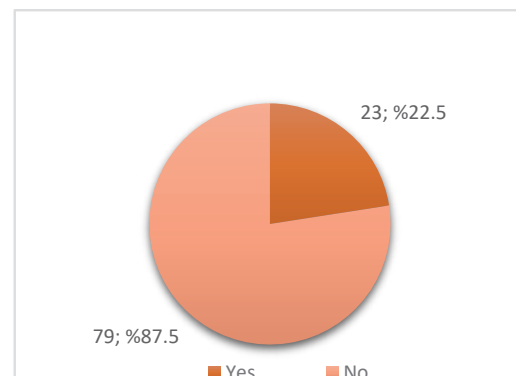
was determined that the majority (n=66) of the murder perpetrator who pursued the victim was spouse-ex-spouse/partner-ex-partner (Figure 3). This finding is followed by someone victim knows, relatives and people they do not know. In 9 cases, the perpetrator of the murder who carried out stalking could not be identified.

Figure 3. Identify of the stalker



When we examined 102 murder cases in which there were stalking in terms of protection or restriction orders. It was determined that the female victims in 23 murder cases filed a complaint report before the incident and got protection or restriction against the perpetrators. In 79 of 102 cases, it has been seen that no information was shared on this matter (Figure 4).

Figure 4. Whether there is a restriction or protection order



When we analyzed the ways in which 102 cases, whom we identified as victims of stalking, were exposed to; we found that they experienced stalking behaviors commonly seen in the literature. In general, women were exposed to the following stalking behaviors: stalking while

walking on the street, chasing them with vehicles, threats, breaking into their homes, following them, seeking reconciliation or friendship, walking around their home or workplace, physical violence.

5. DISCUSSION

There are limited studies on the relationship between femicide and stalking in Turkey but current data in the studies are remarkable. 484 femicide cases in Turkey between the years 2015-2016 were examined in a media analysis study which is similar to this research. The results of that research stated that 5.8% of the murdered women were killed by the stalker due the reason of "not wanting to reunite with the spouse they broke up with" (Karataş and Erükçü Akbaş, 2017). Our research stated that as 8.4% (n=102) in our study. Considering the results, it can be said that although there is an increase over the years, the difference is due to the fact that the number of years included in the analysis is not equal. While our study includes the 3-year media news analysis, Karataş and Erükçü Akbaş's study includes 1-year media news analysis.

When the literature is examined, it can be said that women are mostly stalked by their intimate partners. In a field study conducted with 447 women in 2021, it was stated that women were mostly stalked by their ex-spouse/ex-partner/ex-lover (29.4%, n=78) (Polat et al., 2021). These results are in line with the the profile of the stalkers determined in both the results of Karataş and Erükçü Akbaş (2017) and our research. Unfortunately, women are mostly stalked by their intimate partners, subjected to violence and killed.

According to the another study conducted by Taştan and Küçüker Yıldız with the 932 femicides recorded in the official police and gendarmerie records throughout Turkey in 2016, 2017 and 2018, 1% of 932 femicides were perpetrated by the stalkers (Taştan and Küçüker Yıldız, 2019). These official data, covering the 3 years preceding our research, support our media analysis. However, it is thought that a media analysis study to be conducted in the same year as the study will give us more information about how

femicide cases are reflected in the media.

When it is examined the foreign literature on the subject, it is come across the study of Mcfarlane et al. (1999). In this study, 141 femicides and 65 attempted murders, a total of 206 cases that occurred in 11 different states of America between 1994-1998 were analysed. According to the results of the analysis, 76% of the victims of femicide and 85% of the victims of attempted femicide had experienced at least one stalking event in the previous year. It is noteworthy that the results are much higher than the results reflected in our research. At this point, it can be said that the first legal regulation on stalkinf was made in the state of California, USA in 1990. This is how the regulations in the registration of stalking after legal regulations were reflected in the results.

Mcfarlane et al.'s (1999) study; stated that that the most frequently reported stalking behaviour for victims of both femicide and attempted murder is actually stalked the victim or being watched. Additionally, almost half of the women reported that they were sitting in a car outside the perpetrator's home or workplace and that they had stalked themselves and received unwanted calls. When we analyse the news reflected in the media in our study, we can say that the surveillance, wandering around the house or workplace are observed frequently as the stalking behaviours.

6. CONCLUSION

Femicide is the murder of a woman because of her gender. This term is used to describe the intentional killing of women by men in a context of patriarchal power structures, where men hold more power and privilege than women. Femicide is a serious human rights violation and is often linked to other forms of violence against women, such as stalking by intimate partner. Intimate partner femicide refers to the killing of a woman by her current or former intimate partner.

Intimate partner femicide is a significant problem in Turkey In this context, it is important to address the issue in terms of stalking, which is a different perspective in our work, to provide innovative and different alternatives to the solution for both concepts.

When results are analysed, women are often faced to different types of violence and then killed by their intimate partners. The stalking can be observed within these types of violence against women. Unfortunately, women are stalked and then killed.

When the news articles are examined, there is a lot of detail about the femicides, but there are no details about the prior period of murder. In other words, although it is not specified in the news, before a femicide, it is common for the victim to experience some form of violence, such as physical abuse, sexual abuse, psychological abuse, or stalking. It is a serious problem that affects millions of women worldwide including Turkey; and can escalate to fatal violence if not addressed. The details of the violence experienced by the woman before femicide often are not in the news, such as she was stalked by the perpetrator or not. Information on these details can only be understood from the statements of the families included in the news. In our study, we were able to determine that women were stalked before femicide, based on the statements of the families in the news details. It can be explained by the fact that the society and the media are unfamiliar with the concept of stalking. It can be said that the recent legal and social developments on this subject have increased the sensitivity to the subject and helped the awareness on stalking cases. Therefore, it may be more frequently encountered the stalking news in the news articles of the upcoming period. In this study, the stalking appears mostly with following women and threatening behaviors. The results are similar to the literature and it shows that stalking cases have some specific behavior patterns. At this point, increasing the awareness of society on stalking behavior is important for both the perpetrator and the victim. The victims of stalking may not realize that the behaviour they experienced is a crime. Therefore, they are may be passive in reporting the crime.

As a result, the analysis of our study, it is seen that the measures taken against the crimes for help of women who are victims of stalking in many cases are insufficient. Therefore, it can be said that legal measures should be made more

functional and at the same time, studies on the rehabilitation of the perpetrator should be carried out effectively.

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