

## On Legal Interest of Criminal Offense of Stalking in Taiwan

*Shih-Hsuan Huang\**

### Abstract

The subject of this article is on legal interest of the criminal offense of stalking in the Taiwanese Stalking and Harassment Prevention Act, enacted since Dec. 2021. In the first part, this article scrutinizes the progress of the legislation of the Taiwanese Stalking and Harassment Prevention Act, and points out there are two possible ways to perceive the intent of the legislator. One is that the legal interest of the criminal offense of stalking is the safety of life and body of victims, the other is that the legal interest of the criminal offense of stalking is the victims' sense of security. In the second part, this article introduces theories concerning the criminal offense of stalking, and tries to clarify the scope of the offense based on those theories. In the third part, this article scrutinizes the judicial practices of Taiwanese supreme court concerning cases in which the defendant tailed, performed surveillance or harassment before the murder of the victims, and tries to characterize the structure of the progress from stalking to committing serious murders.

Based on the study above, this article points out that (1) the legal interest of the criminal offense of stalking should be perceived as the safety of life and body of victims, (2) the wording "sexual or gender-related" in Article 3 of the Taiwanese Stalking and Harassment Prevention Act should be perceived as the personal relationship allowing the defendant to invade the core of the victims' daily life, (3) the victims should know the stalking acts so the criminal liability and criminal punishment has a clear indication, and it is more possible for the victims to reach out for help if they know, finally, (4) the interpretation of statutory penalty prescribed in paragraph 1 and 2 of Article 3 of the Taiwanese Stalking and

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\* Associate Professor, College of Law, National Chengchi University.  
E-mail: ksklaw22@nccu.edu.tw

Harassment Prevention Act should correspond to the danger of life and body of victims.

**Keywords: stalking, sexual or gender-related, legal interest of life or body, danger, invasion of the core of daily life**