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CONFLICT RESOLUTIONS PROGRAM
MASTER’S THESIS

**VIRTUES AND VIRTUOUSNESS OF THE VICTIM
OFFENDER MEDIATOR IN THE PROCESS
MANAGEMENT**

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İZMİR-2019

APPROVAL PAGE



DECLARATION

I hereby declare that this master's thesis titled as “ Virtues and Virtuosity of the Victim Offender Mediator in the Process Management” has been written by myself in accordance with the academic rules and ethical conduct. I also declare that all materials benefited in this thesis consist of the mentioned resources in the reference list. I verify all these with my honour.

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2019



ABSTRACT
Master's Thesis
Virtues and Virtuousness of the Victim Offender Mediator
in the Process Management
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Department of Business Administration
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One of the most important factors in achieving restorative justice on which victim offender mediation is based is the qualified victim offender mediator. A qualified victim offender mediator is required to have many skills and qualifications. One of the most essential factor in qualifications of the victim offender mediator is a good character. A good character also relates to being virtuousness and having virtues. In our study, after reviewing how virtuousness and virtues take place in international texts and legislations related to victim offender mediation in Turkey; eighteen virtues evaluated in frame of the necessity of victim offender mediator to have within process, which are determined in Andre Comte Sponville's book named "A Small Treatise on the Great Virtues". Besides, a survey which is developed by researcher, is applied to the participants of victim offender mediation; victim offender mediator, complainant and suspect/defendant and the findings are shared and commented. The participants of victim offender mediation, victim offender mediator, complainant, suspect/defendant generally and individually emphasized the necessity of victim offender mediator having virtues and virtuousness in victim offender mediation process.

In addition, it has been evaluated that a more specific and comprehensive consideration of virtues and virtuousness can be beneficial for the mediation and victim offender mediation institutions in the establishment of

professional mediation and victim offender mediation standards, determination of ethical principles, preparation of training modules.

Keywords: Restorative Justice, Victim Offender Mediation, Victim Offender Mediator, Mediator, Virtue, Virtuousness, Qualification, Skill.



ÖZET

Yüksek Lisans Tezi

Uzlaştırmacının Uzlaştırma Süreci Yönetiminde Erdemleri ve Erdemliliği

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Uzlaştırmanın temel aldığı onarıcı adaleti sağlamada en önemli faktörlerden biri, uzlaştırmacının nitelikli olmasıdır. Nitelikli bir uzlaştırmacının birçok beceri ve niteliğe sahip olması gerekmektedir. Nitelikli bir uzlaştırmacı olmanın en önemli faktörlerinden biri ise iyi bir karaktere sahip olunmasıdır. İyi bir karaktere sahip olmakta erdemleri taşımak ve erdemlilikle ilişkilidir. Çalışmamızda, erdem ve erdemliliğin uzlaştırma ile ilgili uluslararası belgelerde ve Türkiye’deki uzlaştırma ile ilgili mevzuatta ne şekilde yer aldığını gözden geçirdikten sonra, Andre Comte Sponville’nin Büyük Erdemler Risalesi isimli kitabında belirlenmiş olan on sekiz erdem esas alınarak, uzlaştırmacının her bir erdeme uzlaştırma sürecinde sahip olması hususu değerlendirilmiştir. Bunun yanında araştırmacı tarafından gerçekleştirilmiş olan, uzlaştırmacının uzlaştırma sürecinde taşıması gerekli erdemlere dair anket, uzlaştırma sürecinin katılımcıları olan uzlaştırmacı, müşteki ve şüpheli/sanığa uygulanmış ve bulgular paylaşılarak yorumlanmıştır. Uzlaştırma süreci katılımcıları genel olarak ve ayrı ayrı uzlaştırmacı, müşteki, şüpheli/sanık rolleri ile de, uzlaştırmacının uzlaştırma sürecinde erdemlere sahip olmasının ve erdemliliğinin gerekliliğini vurgulamışlardır.

Bunun yanında arabuluculuk ve uzlaştırma ile ilgili meslek standartlarının oluşturulmasında, etik ilkelerin belirlenmesinde, eğitim modüllerinin hazırlanmasında, erdemlerin ve erdemliliğin daha belirgin ve kapsamlı bir şekilde ele alınmasının arabuluculuk ve uzlaştırma kurumlarına faydalı olabileceği değerlendirilmiştir.

**Anahtar Kelimeler: Onarıcı Adalet, Uzlařtırma, Uzlařtırmacı, Arabulucu
Erdem, Erdemlilik, Nitelik, Beceri.**



**VIRTUES AND VIRTUOUSNESS OF THE VICTIM OFFENDER
MEDIATOR IN THE PROCESS MANAGEMENT**

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ABBREVIATIONS

a.	article
ACR	Assosication of Conflict Resolution
ADR	Alternative Dispute Resolution
ACR	Conflict Resolution Association
ADRIC	The Alternative Dispute Resolution Institute of Canada
CEPEJ	Council of Europe European Commission for the efficiency of justice
CREnet	Family Mediators and Conflict Resolution Training Network
CPL	Child Protection Law
EFRJ	European Forum Victim-Offender Mediation and Restorative Justice
e.g.	For example
i.e.	so
LCP	Law of Criminal Procedure
NGO	Non Governmental Organization
SPIDR	Society of Professionals in Dispute Resolution
TPL	Turkish Penal Law
TLA	Turkish Linguistic Assocation
UYAP	National Judicial Network Project
Vom	Victim offender mediation
Vomediator	Victim offender mediator
Vom Reg. LCP	Victim Offender Mediation Regulation according to Law of Criminal Procedure

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INTRODUCTION

In the modern sense, with the approach of bringing the Criminal Law to more human structure, studies have been carried out since the 1960's and victim offender mediation as a function of restorative justice was first implemented in Canada in 1974. (Yerdelen, et. al. , 2018: 6-7). Today, restorative justice programs are applied as a method of dispute resolution in many countries of the world.

Approach of restorative justice has existed in all societies in terms of Criminal Justice in a significant part of human history. (Çetintürk quoted from Baytaz, 2017: 19) Traces of this approach can be found in the history of many ancient cultures in Africa, Latin America, Asia, Canada and New Zealand. (Çetintürk quoted from Aertsen/Mackay/Pelikan/Willemsens/Wright, 2017: 19)

. Victim offender mediation, although it takes place in our legislation since 2005, except for the province of Izmir, application across Turkey, with Law No. 6763 dated 24.11.2016 has spread to the amendment made to the Law of Criminal Procedure.

It is important that the new institutionalization of victim offender mediation in Turkey is structured on steady and healthy foundations. One of the important elements of such a structuring is that the qualification of victim offender mediators who lead the process of victim offender mediation. Among the qualities of victim offender mediators, virtuousness and virtues are of special importance and value in terms of supporting the process within the framework of restorative justice principles in the face of the dynamics of the victim offender mediation process.

The aim of our study is to emphasize the necessity and value of victim offender mediator having virtuousness and virtues in victim offender mediation process. There are limited studies in the literature regarding our subject. In this respect, it can be thought that our study will contribute to the literature associating the virtues and virtuousness of victim offender mediator with Ethic Codes, Occupational Standards and training programs.

For this purpose, in the first part of our study, firstly the basic concepts of Law of Criminal Procedure and Victim Offender Mediation will be explained, the relationship between victim offender mediation and mediation in the literature will

be put forward, and then the restorative justice approach, which is the intellectual basis of victim offender mediation, will be explained. Chapter One will be completed by revealing the relationship between skills and qualities through virtues.

In the second part, after the definition of virtue is made, international texts and victim offender legislation in Turkey related to virtues will be examined. By emphasizing the difference between knowing virtues and virtuousness, the contribution of victim offender mediators virtues to the victim offender process will be emphasized. Then the individual virtues will be discussed and the contributions of victim offender mediators carrying these virtues in the victim offender process will be emphasized and the second part will be completed.

In the third part, the findings of the field study related to the virtues that the victim offender mediators should bear during the victim offender process will be shared and interpreted and the third chapter will be completed.

In the conclusion part of the study, the information compiled and shared in the study will be evaluated together with the field study data and suggestions will be shared.

As a result, it is hoped that a contribution to the literature may be made by emphasizing the necessity of the victim offender mediator to have virtues in the process of victim offender mediation.

CHAPTER ONE

VICTIM OFFENDER MEDIATION

There are various definition of victim offender mediation. According to the definition in the Victim Offender Mediation Regulation according to the Law of Criminal Procedure, “victim offender mediation is the process of settling the dispute by conciliation of the suspect or accused and the victim, the affected by crime or its legal representative by the victim offender mediator according to the procedures and principles of the Law and this regulation due to a crime within the scope of victim offender mediation.” (Victim Offender Mediation Regulation according to Law of Criminal Procedure a.4-1/k) The definition of victim offender mediation, in “The Training Book of Conciliation in Law of Criminal Procedure” is,” Victim offender mediation is the process of reconciliation of the victim and the affected by the crime, the suspect and the accused under the supervision of an independent and impartial victim offender mediator, who also has the conditions stipulated in the law and regulation regarding the crimes specified in the legislation.” (Yerdelen, 2018 : 20) Victim offender mediation (vom) which is ensured in Law Of Criminal Procedure (LCP) and Victim Offender Mediation Regulation according to Law Of Criminal Procedure (Vom Reg. LCP) is expressed as victim offender mediation, offender victim conciliation and conciliation in some sources. In this study, the abbreviation vom may be used instead of the victim offender mediation, the abbreviation LCP may be used instead of the Law Of Criminal Procedure, which is the basic legislation on the functioning of criminal proceedings. In addition, instead of the Victim Offender Mediation Regulation according to Law of Criminal Procedure, which explains the concepts, institutions and details of vom, Vom Reg. LCP will be used.

Aggrievement arising from crime can be eliminated with two methods: firstly, form of non-trial which can be expressed as offender-victim mediation and secondly, classical criminal procedure. (Özbek V. 2005: 993) Offender-victim mediation is one of the methods which enables to eliminate the victimhood out of trial. (Özbek V. , 2005: 995) The victim offender mediation (vom) is an alternative solution of disagreement which criticizes not only criminal justice as a form of extrajudicial but also does not deny and performs its role in unity with the criminal

justice. (Agtas, 2013: 265) In this study, the the abbreviation vom may be used instead of the victim offender mediation.

Humanising of penal law shall be enabled by means of the offender-victim mediation and resolution of dispute out of judiciary. (Özbek V. , quoted from Trenczek, 2005: 994) “It is becoming increasingly clear that the vom process humanizes the criminal justice experience for both victim and offender.” (Umbreit, 2001: 36) In vom process, it is possible to say that vom is handled in amore natural and humanistic way in comparison with the classic criminal procedure. This situation is valid in form and principle. When we look as the form, the victim and suspect-accused try to express themselves by standing up in criminal procedure. In vom, the parties argue the disagreement by sitting at the table together or separate but with vomediator.

In the principle, there is no negotiation of the disagreement and the renovation but statement, testimony or interrogation in the criminal procedure while the parties discuss on the disagreement and renovation directly or indirectly by the help of vomediator. All these differences of approach arise from paradigm which the vom presents about crime parties. “Whereas a victim-offender mediation attempts to bring healing to an interpersonal level” (Jeong, 2010: 220) The victim offender mediator (vomediator) who manages the victim offender mediation process, should also try to create healing environment and opportunities with their humanistic approach in the process. In this study, the the abbreviation vomediator may be used instead of the victim offender mediator.

The vom was involved in 8th clause of 73th article of Turkish Penal Law (TPL) in our legislation firstly in 2005. In this study, the the abbreviation TPL may be used instead of the Turkish Penal Law. There have been regulations related vom in 253th 254 th and 255th articles of LCP.

Besides, there have been regulations regarding the vom in the crimes where the offender is juvenile pushed to crime in 24th article of Child Protection Law(CPL). 8th provision of 73th article (a.) of TPL was abolished as a result of amendment dated 06.12.2006. In this study, the abbreviation CPL will be used instead of Child Protection Law and the abbreviation a. may be used instead of

article. A comprehensive amendment has been carried out with law no.5560 in vom instituton.

Vom process was involved in chapter one titled conciliation of second part titled compromise and Confiscation of fourth book of LCP and it has been regulated in 253th-254th-255th articles of LCP. By amending in TPL and CPL, it has been arrived at decision where regulations entering in LCP in terms of juveniles pushed to crime shall be implemented.

Regulation works of vom activities haven't been limited to these and important amendments in procedures and principles of the vom have been made again with LCP dated 24.11.2016 and no. 6763 and A Code Related To Making Amendment On Some Codes. Covering of the vom activities have been enlarged with this regulation. Besides, for the first time organisation of the vom institution has been created. Within this scope, Department Of Alternative Solutions in the capital and vom bureaus in rural have been established. Regulation about vom operation which is managed by public prosecutors appointed with only vom has been also carried out as a result of this organization. On the other hand, Vom Regulation according to the Law of Criminal Procedure (Vom Reg. LCP dated 05.08.2017, no. 30145) which has been enacted in terms of implementation of law no. 6763 and trainings of the vomediators according to abolished regulation have been regulated inclusively and the way of making vom without getting training has been precluded as a result of these regulations and it has been provided them with train as long as they worked. (Vom Reg. LCP a. 50th)

The crimes within the context of the vom have been disclosed in first provision of 253th article of LCP. As well as its exceptions, canon is that the crimes connected complaint subject to the vom. The crimes not being connected complaint need to be implied in the code clearly in order to subject to the vom. According to law no. Different from 6763 and first provision of 253th article of different LCP, intentional injury (86th and 88th articles of TPL except for 3th paragraph), reckless injury (89th a. of TPL), threat (first provision of 106th a. of TPL), violation of residence immunity (116th a. of TPL), theft (141th a. of TPL), fraud (157th a. of TPL), kidnapping and abduction (234th a. of TPL) and clarification crimes of information and documents which have the characteristics of business secret,

banking secrecy or customer secret (239th a. of TPL except for 4th paragraph) don't subject to the complaint but are in the scope of the vom. By 17 September 2019 dated, 7188 dated law, violation of the freedom to work and labour (TPL, a.117 first paragraph, a.119 first paragraph, c clause, abuse of confidence crime(TPL, a.155), buying or accepting criminal product (TPL, a.165) are included within the scope of vomediation.

If the crime subject to the complaint, it is in the scope of the vom unless otherwise stated in the code. Law-maker has left some crimes which subject to the complaint out of the vom scope. Sexual inviolability crimes are out of the vom scope. (Third provision of 253th a. of LCP) Provided that they subject to the complaint, the crimes which aren't regulated in TPL are also in the scope of the vom.

In order to be party of the vom, criminal capacity is required. Since proceedings can't be served about people without the criminal capacity, it is not possible to implement vom provisions about them.

Therefore, the vom in terms of juveniles pushed to crime shall be implemented in determined framework in TPL, provided that there is criminal capacity. The vom scope in terms of juveniles pushed to crime has been enlarged with law dated 24.11.2016 and no. 6763. Accordingly, in terms of juveniles pushed to crime, vom attempt is also made in the crimes which require to prison sentence whose upper limit doesn't pass 3 years or judicial fine, provided that the victim or affected by crime is natural or private legal person. (First provision of 253th a. of LCP, second provision of 8th a.of Vom Reg. LCP) However, by third provision of 253th article of LCP, the vom can't be resorted in terms of sexual inviolability crimes and the crimes whose victim is public law corporation even if it is committed by juvenile pushed to crime.

“Unity in terminology should be ensured. Conciliation and vom are used in the same sense.” (Erdem et. al. :6) It is observed that the concepts of conciliation and vom are used interchangeably in the LCP and the Vom Reg. LCP, and they are used in contradiction within themselves. Because of these main conceptional mistakes, many concepts related these have been also formed wrong successively. In our study, conceptual problems will be mentioned and concept suggestions that are considered appropriate will be brought to the agenda. Some of the conclusions of

conciliation and vom concepts will be made in the conciliation section after examining the concept of conciliation.

When we examine the vom concept at this stage, it is seen that meanings which are attributed to the vom concept by LCP and Vom Reg. LCP differ.

According to the definition in the Vom Reg. LCP, “victim offender mediation is the process of settling the dispute by conciliation of the suspect or accused and the victim, the affected by crime or its legal representative by the victim offender mediator according to the procedures and principles of the Law and this regulation due to a crime within the scope of victim offender mediation.” (Vom Reg. LCP a. 4-1/k). By attributing a positive meaning to the vom in this describing, the concept has been allocated to the processes which end with agreement. However, the vom concept has been regulated under the vomediation general heading in LCP and also as general name of whole process including the agreement and the disagreement. For example, by presenting that the vom can't be resorted again to the extent that the vom remains inconclusive in 18th provision of 253th article of LCP, the vom concept is presented for whole process including the agreement and the disagreement.

It may be appropriate to define vomediation as eliminating incompatibility through conciliating the parties. Besides, it may be appropriate that the name which has been given to the process expressed as “vom ” in LCP is “conciliation attempt”. The law-maker has also already determined the general name of the process as the conciliation attempt prophylactically with the provision “the conciliation of the suspect and the victim or natural or private legal person affected by crime is made in following crimes” in first provision of 253th article of LCP. However, many concepts including main heading of the article are expressed as conciliation. It may be suggested that the correct definition stuck in this clause should be adopted and conceptualized as the name of the process referred to as conciliation. Because the core of the process itself is an attempt of conciliation from the aspect of the parties.

The conciliation attempt can be stopped with the parties wills at every stage, can be brought to an end negatively or can result in the vom with expression of the concept in the Vom Reg. LCP. In this case, when we define the vom as the process where acceptors are agreed by the vomediator, the process which ends up without agreement between the parties remains undefined. However, it is possible to agree as

well as not to agree in the vom process. On the other hand, in the face of reconciliation definition as “the process where the parties are agreed” in Vom Reg. LCP, it can be taught that the conciliation, which should be process-driven, is wrong concept. Because this result-oriented definition is inappropriate for philosophy of the Vom Institution. “The vom is a healing process, it is the process of participation to mediative dialogue which provides enhancer, transformative experience.” (Umbreit, 2001: 302) Therefore, it can be taught that vom concept is more proper describing instead of the conciliation concept. Thus, vom concept may be suggested instead of conciliation concept.

It can be said, conceptional problems associated with the Vom Institution aren't limited to only the vom concept. Basic concepts associated with the vom have been defined below and some problematic concepts have been stated under related heading and solution suggestion has been delivered.

1.1. BASIC CONCEPTS REGARDING VICTIM OFFENDER MEDIATION

In this part, the basic concepts related to the Vom in LCP have been explained. Our aim here is to provide familiarity for readers who are unfamiliar with the concepts by explaining technical concepts which are present at different chapters of our subject firstly.

Basic concepts relating to the vom have been defined as compromise, vom, vomediator, suspect and accused, victim and affected by crime, act, vom report and vom document in the book of “Conciliation in Law of Criminal Procedure” which Yerdelen, Özbek, are the writers of “The Training Book of Conciliation in Law of Criminal Procedure”, is amongst others. (Yerdelen et al. , 2018: XI) In the framework of our subject, we also state following basic concepts relating to the vom by enlarging slightly according to the work that we have stated above.

1.1.1. Fundamental Principles in Victim Offender Mediation in Penal Procedure

1.1.1.1. Crime

“Crime is action which is forbidden and bound to penal sanction for being committed or not being committed by rules of law.” (Yılmaz, E. :704)

“Crime is an action which is created by faulty will of a person with imputation ability, is originated by an executive or negligent behavior, is appropriate for type written in the code, requires a punishment to be imposed as unlawful and sanction.” (Alacakaptan, 1967: 10) The definition of crime by Alacakaptan also points to the elements of the crime.

Human behavior called crime has four elements. They are; 1) Legal element (typicality), 2) material element (behavior), 3) illegality element, 4) moral element (faultiness). (Öztürk, 1992: 62) A human behavior which doesn't include these four elements can't be qualified as crime. (Dikici, 2005: 85)

Legality expresses that committed action is defined in the code, it meets this definition and a punishment is determined in return. (Yılmaz, E. 2017: 706)

In order to be able to mention about the material element of the crime, the offender needs to amend in external world with a positive or negative behavior, the material element of the crime hasnot happened only in action thought in the mind. (Yılmaz, E. 2017: 706)

Basic consequence of the crime is that it damages personal and social relationships. (Çetintürk, 2017: 12) After the crime, the victim usually feels weak, powerless, experiences the fear and anxiety of not being able to control their life. (Çetintürk quoted from Umbreit, 2016: 170) The offender can also have different feelings from sadness, uneasiness, regret to satisfaction with commission of the crime. (Durak, 2013: 36) Beyond any doubt, we think that the feelings of the victim and the offender arosen as a result of crime phenomenon and their transformation and so the satisfaction of consciousness of their families and society are associated with quality of the vom process.

The illegality has been defined as behavior pattern which violates commandments and prohibitions that legal order determines in order not the people to be damaged. (Yılmaz, E. , 2017: 317) Illegality element is also formed with the commission of a crime stated in TPL. (Dikici, 2005: 131) Elimination on reparative justice thought basis of the victim's damage which forms from unlawful action creates vom base.

The moral element of the crime is the faultiness. Fault is that the action which is appropriate for legal type is committed prepensely and willfully by a person with the imputation ability, nobody can be punished due to the action which is committed unintentionally and involuntarily, the punishment can't exceed fault degree and can't be less than the offender deserves. (Bakıcı, 2000: 43) “The person who can apprehend the meaning and the consequences of the behavior that he/she makes, makes the behavior prepensely and willfully has fault ability (the imputation ability).” (Bakıcı, 2000: 43)

Vom is directly associated with crime. Vom is resorted as a result of violation of legal values called as the crime. It is not possible to use vom as a result of violation of every legal values. It has been stated in LCP that which crimes can be reconciled. Unless otherwise stated in law, vom can be applied in crimes subjects to complaint and regardless of complaint, can be applied to crimes which are explained clearly in law.

The vom is an alternative disagreement solution method which can be implemented in the crimes subject to the complaint defined in TPL and in the crimes counted in 253th article of LCP relating to the vom regardless of whether they subject to the complaint. The vom differs from other mediation types in that it pertains to the crime.

The crime is a legal phenomenon as well as it has sociological and criminological dimensions. (Alacakaptan, 1967: 1) In the face of the crime's phenomenon of being multidimensional, we think that communication science, psychology and when required other sciences and philosophy along with juridical science should be utilized in the vom process conducted with the alleged people and the victim of the crime or affected by crime. Because it is seen that conflict has been cared and contributed by researchers belonging many different disciplines in

historical perspective. (Rahim, 2001: 14) However, we think that such a scientific and philosophical diversity can carry out active and efficient studies related to the crime including a conflict in itself thanks to wealth and integrity.

1.1.1.2. Investigation

Investigation in the LCP: According to the law, defines the period of time from the discovery of suspicion of crime by the authorities to the admission of the indictment. (LCP a.2 / 1-f).

According to the arrangements in the LCP, process of vom as a rule, it is carried out in the investigation phase.

However, in the exceptional circumstances specified in Vom Reg. LCP a. 22 vom may be applied during the prosecution phase.

The investigation phase is the process that starts with the discovery of suspicion of crime and is prepared by the prosecutor and acceptance to the court until the admission of the indictment. A crime claim is being investigated during the investigation. In some cases, the investigating authorities obtain information during or at the time of the crime; in this case, the investigation begins simultaneously (Şahin, 2014: 32).

Therefore, there is no verdict that the crime has been committed yet. The vomediator should not be prejudiced against the suspect in any case, but should always bear in mind that his duty of ethics is not to judge but to carry out the vom process according to the article of law; “The vomediator's lack of prejudice against the suspect and the accused is an ethical obligation as per the presumption of innocence.” (Vom Reg. LCP a.6-ç)

In some cases, there is no crime; but an investigation may be carried out because there is a claim that the crime has been committed; in such cases it becomes clear as a result of the investigation or prosecution that the claim does not express the truth. (Şahin, 2014: 32)

1.1.1.3. Prosecution

In the LCP Prosecution is defined; ‘’Prosecution begins with the admission of the indictment and extends to the finalization of the judgment. (LCP a.2 / 1-f)

The prosecution phase is a phase that continues with the idea of paralleling the defendant and the status of the defendant, including the first instance, appeal proceedings and appeal review.

As a rule, no vomediation is made during the prosecution phase. However, in exceptional cases specified in a. 22 Vom Reg. LCP, it is possible to carry out the vom process during the prosecution phase.

1.1.1.4. Suspected

The suspected in the LCP refers to the person suspected of a crime during the investigation phase. (LCP a.2 / 1-a)

Any accusation against the person concerned is made with suspicion that he has committed a crime. Criminal procedure begins with suspicion; Even though the suspicion is of a certain intensity, it should not be forgotten that there has not been a trial and a verdict that has been committed and there is no final decision. (Şahin, 2014 : 28)

Based on this reality in the vomediator's communication with the suspect, it should be considered that it is necessary to maintain its prejudice position at all times, to be considered in terms of conducting the process in accordance with the principles of restorative justice and to emphasize it in vomediation trainings.

1.1.1.5. Defendant

Being defendant in the LCP, refers to the phase from the commencement of the prosecution to the finalization of the judgment. (LCP a.2 /1-b) The accused is the title given to the suspect upon the commencement of prosecution. (Şahin, 2014: 30)

The defendant refers to the title of the prosecution who is thought to have committed a crime until the verdict is finalized and the title of the defendant, the

proceedings in each stage of the prosecution of the first-degree trial, appeal and cassation stages, the person is referred to as the defendant. (Şahin, 2014: 30) The extension of the prosecution phase to such a wide process may create a situation in which the vomediator's continued prejudice against the accused may be mentally challenged as the process progresses. In contrast to the investigation phase, the indictment was prepared by the prosecutor's office by accepting the existence of sufficient suspicion about the person suspected of committing a crime and this indictment was accepted by the court. Sometimes even in later stages; for example, in the file where the court has sentenced the defendant, the file may have been referred to the vomediator by a decision to overturn the Supreme Court. (Vom Reg. LCP a. 22) Even in these cases, it may be considered that the vomediator's approach to the accused should be considered equally, impartially and without prejudice and emphasized in vomediation trainings.

1.1.1.6. Juvenile Pushed to Crime

According to Child Protection Law (CPL), Juvenile pushed to crime refers to the child who has been investigated and prosecuted for an act defined as a crime in the laws, or who has been subject to a security measure for the act he has committed. (CPL a.3 / 1-a) In this study, the the abbreviation CPL will be used instead of Child Protection Law.

In the communication with Juvelines Pushed to Crime, the vomediator's careful consideration of the interlocutor as a child and his attempt to reflect justice, love, compassion, goodwill, tolerance and other virtues in the process can contribute to the harmonization of the process with the principles of restorative justice.

1.1.1.7. Perpetrator

The perpetrator is a person who commits a deed. Usually used in place of the defendant; It is also used to express the offender. This is a superscript concept.. (Öztürk, et al. , 2003:300) The statement of perpetrator can be perceived by the suspect and the accused as a violation of the mediator's non-bias ethical principle

(Vom Reg. LCP a.6/ç) and the ethical principle of impartiality (Vom Reg. LCP a.6/a), and it may be possible that this false perception may harm the mediation process.

Since the perpetrator is also used to mean the offender, it can be thought that the concept of victim-offender mediation seems to be problematic.

1.1.1.8. Victim

If there is a crime, there is a victim. (Yılmaz, Z. , 2010: 18) The victim is the person who is harmed by the crime or unjust action. (Yılmaz, E. , 2017: 480)

Being damaged from the crime directly is in a narrow sense, so being damaged in the broad sense is the being damaged from the crime. The material element of the crime (the act that constitutes the offense) is called as the victim who is the equivalent of harm in a narrow sense to the person whose legal benefit is damaged. (Yılmaz, Z, 2010: 19)

Government is the victim of every crime, however this situation requires that the natural and legal person who is the main victim of the crime is not forgotten. (Öztürk, et al. , 2003: 301) In fact, it was forgotten that the victim was the source of the criminal procedure and the resulting penalty. (Özbek V. , 2005: 1001)

In our system, where the state organization provides all kinds of support to the defendant, the same attention should be given to the victims of the crime. (Sokullu Akıncı, 2000: 693) In 1985 the Council of Europe proposed R85 recommendations to member states to improve the situation of the victim. (Sokullu Akıncı , 2000 : 693)

When the recommendations of the Council of Europe are examined, it is seen that the recommendations are intended to include the elimination of the harm of the victim, which is also intended by the Vom institution. In the Council of Europe's decision R (85) II, Recommendation D.11, 'Laws should regulate the reparation either as a punishment or a substitute for punishment, or as an adjunct to the punishment' (Sokullu Akıncı, 2000 : 705) with one aspect in the Turkish Law, initially with removal enforcement found the field of application.

The vomediator's diligence if the victim is a child, the ability to properly reflect justice, love, compassion, prudence, moderation and other virtues can contribute to process management within the framework of restorative justice principles.

1.1.1.9. Affected by Crime

If a person requires to prosecute an act or perpetrator is to satisfy a justifiable need, according to the manner and extent of the rightful interest being injured, the person who has been harmed is deemed to be the person who has suffered extensively. (Yılmaz, Z. , 2010: 19)

The direct being damaged from the crime means “narrow”, so the being damaged explain the mean of “wide” from the crime. (Öztürk, et. al. , 2003: 302)

There is also a difference between the victim and the affected by the crime; other than a victim of a particular offense, another person may also have suffered damage as a result of a violation of a legally protected right and may also be entitled to a claim for damages; the importance of this difference is; although the victim of the offense is a party to the criminal procedure arising from the offense, the person affected by he crime is the only legal party and the claim has only a legal context. (Öztürk, et. al, quoted from Dönmezer: 2003: 303)

In the narrow sense the one who is affected by crime is the same as the victim; in addition to this if we can say that a person's rightful interest, the intensity of his injury due to a criminal claim, requires a need to respond (satisfactory) to justify the demand for prosecution; the person whose right has been harmed so much is a person who has suffered a wide range of crime. (Öztürk, et. al. , 2003: 303)

1.1.1.10. Complainant

The complainant means the reclaimant or petitioner. (Yılmaz, E. , 2017: 549) In the law of criminal procedure, reclaimant is used instead of complainant. Victims who are reclaimant called the complainants. The concept of complainant is used in LCP 29 / 2.In Vom Reg. LCP, “If the complainant or the person who is damaged by

the crime is a private legal entity, if he has special authority in his power of attorney, the counsel may be offered to compromise.” (Vom Reg. LCP a. 29 / 2)

Title of complainant is not limited to the victim that the reclaimant. Tosun should be able to use intuitive (unbelievable) minor when the legal representative is not complaining, since the right to complain is primarily those who have been harmed by the offense; It is concluded that the right to complain about crimes committed against kids and mentally patient persons should be in their legal representatives and that the representative should be able to complain even if they do not want to be harmed by the crime (Tosun, 1984: 225)

In case the victim or affected by the crime is underage or limited and does not have the power to distinguish, the proposal for reconciliation shall be made to his legal representative. (Vom. Reg. LCP a. 29 /1).In this case, if the parent complains on behalf of the child, the parent is the complainant. The offer of reconciliation should also be made to the legal representative, not the child.

1.1.1.11. Defender

In the LCP, the defender (LCP a.2 / c) refers to the lawyer who makes the defense of the suspected or accused in the criminal procedure.

The defender in respect of suspicious, that the suspect did not commit the alleged offense and that there was not enough suspicion of criminal offense for public prosecution; tries no verdict of conviction or less punishment about the defender. (Özbek, V. et al. ,2018:145)

The vomediaator and the suspect-accused advocate to conduct the vom process in a civilized manner with respect and courtesy can be considered as an approach compatible with the essence of the vom institution. It can be considered that the suspect-accused may be harmed by a conflict between the vomediator and his defense, and that a healthy relationship may contribute to the climate of the process.

1.1.1.12 Attorney

In the LCP, the attorney (LCP a.2 / 1-d) refers to the attorney who represents the person involved, the criminal offender or the financially responsible person in criminal proceedings

It can be considered that carrying out the relationship between the vomediator and the attorney in a civilized manner with respect and courtesy is important for carrying out a restorative process and eliminating the damages of the victim and the affected by crime. It can be thought that a conflict between the vomediator and the attorney can eliminate the positive consequences that can be expected from the vom process on the basis of restorative justice for the victim and affected by crime.

So far, the basic concepts of criminal law which will be used frequently in our study have been examined. Now the basic concepts of vomediation can be examined.

1.1.2. Basic Concepts Regarding Victim Offender Mediation

1.1.2.1. Compromise

Compromise is defined by the TLA as “status of compromise, convention, accordment, consensus. (TDK,<http://sozluk.gov.tr/>,14.06.2019) In this study, the abbreviation TLA will be used instead of Turkish Language Association. Comprromise together with confiscation in LCP, arranged as Fourth Book Second Part and first part title. Comprromise, including agreement and non agreement as a title of this part, is a general name for the whole process. In this part, as 253rd article heading of LCP is comprromise, as it is written in 34th article of 6763rd law of 24/11/2016 date, it is changed as vom. While this modification is made, subheading or section heading are saved as vomediation.

However, in Vom Reg. LCP, compromise is defined as the positive result of vom with an approach specific to the agreement of the parties only as 'all that the suspected, accused and the victim have agreed in accordance with the procedures and

principles of the law and this regulation due to a crime within the scope of vom. The narrow definition is also compatible for the TLA's definition of compromise .

Compromise in Vom Reg. LCP means that'' the suspect or accused and the victim or affected of a crime due to a crime within the scope of vom have agreed in accordance with the procedures and principles of the law and this regulation ". (Vom Reg. LCP a.4/j)

Although compromise in Vom Reg. LCP is defined as the agreement of the parties, compromise in the LCP is defined as the headline of the legal regulation of this institution; this is the name given throughout the whole process. The elimination of this contradiction is important for the clarity and unity of the concepts of doctrine and practice. It can be observed that, in the "Law of Criminal Procedure Conciliation Training Book", adopts conceptualization in Vom Reg. LCP and conceptualizes vom as a process and compromise as an agreement. (Yerdelen, 2018: 19)

Considering this dilemma together, compromise is the name of the whole process, including compromise proposal, vomediation information, vomediation negotiations, Reconciliation Bureau prosecutor approval of vomediation report; but on the other hand, only the parties agreed.

The reflection of this contradiction in the concept of compromise to the other concepts of vom, if we exemplify the concept of compromise in terms of the concept of compromise proposal, when the compromise is narrowly defined as agreed with the definition in the Vom Reg. LCP, it is necessary to understand the offer of compromise as an offer of agreement; The offer made by the vomediator to the parties at the beginning of the process following the vomediation notification is not an offer of agreement; it's just an offer to try the vom path. However, in practice, the compromise proposal is perceived as agreement proposal by the parties and this situation causes problems regarding the correct and positive perception of the institution at the beginning of the process. Therefore, instead of the concept of ''conciliation proposal'', the concept of ''conciliation initiative'' can be considered.

It is possible to increase the number of examples of conceptual problems. Another example is that "as a result of the compromise negotiations held in the code of criminal procedure, the vomediator prepares a report and gives it to the Reconciliation Bureau along with the documents given to him. (LCP a. 253 / 15)

First of all, it is not compatible to call compromise negotiation for deliberations in this process. Because of course, as a result of the negotiation, there may be agreement or non-agreement. The concept of vom negotiation is also inappropriate. Because in this concept, for the reasons mentioned above, since it is defined as agreement, when we take this concept as basis, we make a result-oriented approach and conceptualization rather than process-oriented. In this case, it is incompatible with the philosophy on which the vomediation institution is based. On the other hand, since the vomediator prepares and reports to the Reconciliation Bureau whether the parties agree or not as a result of the negotiations, the general name of this report cannot be compromise report; it cannot even be a reconciliation report with the name used in teaching and practice for the reasons mentioned above. Therefore, instead of the ‘reconciliation report’, the concept of ‘reconciliation initiative report.’ may be proposed.

In order to prevent these problems, there is a need to reorganize all the misconceptions related to compromise, especially the section and portion title. In this opinion, it is true that the compromise should be defined as the agreement of the parties, as in the definition of the regulation and with the amendment made with the Law No. 6763 dated 24/11/2016, which have been explained above, the concept will be used with this narrow meaning in our study based on the determination of vom as the name of the whole process.

1.1.2.2. Victim Offender Mediator

In Vom Reg. LCP, vomediator is defined as a lawyer or person who studied law or appointed by public prosecutor (Vom Reg. LCP a.4/1) who manages the vomediation negotiations (Vom Reg. LCP a.29) between the suspect or the accused and the victim or the person affected by crime. In the vomediator definition in the Vom Reg. LCP, it is clearly stated that the vomediator is the manager of vomediation negotiations, different from the mediator definition in the mediation legislation.

However, the vomediator is in fact not only the leader of the negotiations but also the whole of the vomediation process with the parties. Because the authority to propose vom to the parties was granted to the vomediator with the amendment made

to the LCP. Informing the parties about the settlement process and making a vom offer are made under the management of the vomediator after the vom proposal is made in accordance with the legislation. Vom process continues to manage to processthroughout the negotiations. In addition, the vomediator's management continues after the negotiations are completed. The signing of the parties to the vom report and the submission of the report to the Reconciliation Bureau is the process under the vomediator's management. Therefore, we believe that the “leading vom negotiations” expression in the Vom Reg. LCP a.4/1 should be arranged as “leading the vom process attempt”.

Essentially, in the vomediator management, the processes that have their own unique features and are articulated as the process moves towards the vom process are carried out with vomediation file parties. Of course, as in all managerial processes, leading the vom process requires the transfer of many skills and qualities associated with the vomediator's task.

In the training of the vomediator, it aims to develop alternative conflict resolution, communication and negotiation skills and methods, and to gain knowledge about the special conditions of working with the victim, affected by crime suspect or accused and the criminal justice system. (Vom Reg, LCP a. 50/2)

Although there is no education issue related to virtue and virtues within vomediator training subjects, it may be possible to provide information to Vomediator candidates by clearly indicating that the vomediator should bear the virtue of courtesy in the vom process within the framework of the ethical principles in Vom Reg. LCP and by revealing the relationship between other ethical principles and virtues. However, we believe that the specific conditions of the victim, crime, suspect or accused identified as one of the education subjects in Vom Reg. LCP a. 50 / 2 will be considered as a separate course considering that it is directly related to the virtue and virtues of the vomediator.

On the other hand, the disadvantages of using the conciliation as a concept above also apply to the conciliator. Because at the end of the negotiation process, the parties sometimes agree and sometimes do not. Therefore, instead of the result-oriented Conciliator approach, mediator approach should be used without the addition of victim-offender qualities. Mediator approach is in line with the

restorative justice philosophy. Because, even if the concept of perpetrator is not intended to be used in the sense of committing the crime, we believe that non-prejudice due to presumption of innocence by the suspect may be perceived as a violation of the ethical principle and this perception may harm the vom process. Just as the mediator working in labor law dispute is not needed to be called a worker employer mediator and the concept of mediator is accepted as sufficient, it can be thought that the same situation is acceptable for the mediator working in criminal law.

1.1.2.3. Act of Victim Offender Mediation

The act has the meaning of debt legally, however the word debt has no meaning of pecuniary debt which is used common in public. (Baştuğ, 1973: 12) The act has the meaning which the creditor has the authority to claim fulfillment, the debtor enters into obligation to fulfill. (Kılıçoğlu,2013:3)

In the event of that compromis is realized, the report including the signatures of the parties shall provide a detailed explanation of the manner in which the vomediation has been made (LCP a. 253 /15).In that case, the signatures of the parties must be provided in the vomediation report.

If the parties agree to fulfill a certain act at the end of the vom, they may decide to perform one or more of the following acts or any other acts in conformity with the law and morality specified therein. (Vom Reg. LCP a.33/1) Accordingly, it is stated that the actions that can be decided during the settlement process are not only those mentioned in Vom Reg. LCP a.33 and that other actions in accordance with the law and morality can be decided as an example.

According to this; the parties may decide one or more of the following acts or any other act in accordance with the law and morality specified therein:

- a) Compensation or reinstatement of material or non-pecuniary damage resulting from the act in whole or in part
- b) Compensation or reinstatement, in whole or in part, of material or moral damages of the person or persons who are successors to the rights of the victim or affected by a crime

- c) To act as a donor to a person or persons in need of assistance with a public institution or a private organization serving the public interest
- d) Provision of certain services temporarily for a victim, victim of a crime, a third party or a public body or a private organization serving public benefits,
- e) Participation in a program that provides being an individual that is beneficial to the society,
- f) Make apology to victim or the person who is affected by crime, (Vom Reg. LCP a. 33)
- g) Apology of victim or affected by crime,
- h) As a result of the will of the parties to be formed in this direction, it is possible to reconcile without act. (Vom Reg. LCP a.33/2) provision has been explicitly included and the hesitations in practice regarding whether there will be a negligent compromise before the regulation has been eliminated.

1.1.2.4. Report of Reconciliation

Reconciliation report refers to the report issued by the vomediator (Vom Reg. LCP a.4) when vom is concluded.

Vomediator has made the report prepared in accordance with the reconciliation report example given in Annex-3 as from the date of ended in concluded of the vom transactions, the parties' acts separately, without doubt and hesitation and (if possible, including the sequence number), the document samples given to him and if any, documents the expenses to which it is incurred, submits an expense statement or written declaration in conformity with the report to be arranged in UYAP (National Judicial Network Project) (Vom Reg. LCP a. 25/1)

Reconciliation report is the report prepared by the vomediator as a result of vomediation negotiations and submitted to the Reconciliatoin Bureau. The report should be prepared on the basis of the reconciliation report in the annex of Vom Reg. LCP. reconciliation report basically contains information on how the vomediator is

conducting the vom process and explanations on whether the parties have compromised, and if they have compromised (Vom Reg. LCP a. 25/2). and also if vom has taken place and the act (s) has been identified, the conclusions must indicate in the reconciliation report. (Vom Reg. LCP a. 25 /1)

If the public prosecutor determines that the conciliation based on the free will of the parties and the act is in conformity with the law and morality, it approves the report and document by stamping and signing it and keeps it in the investigation file. (Vom Reg. LCP a.18 /4)

If the public prosecutor does not approve the report or document because the agreement is not based on the free will of the parties and the act is not in accordance with the law and morality, the public prosecutor shall write the reason for the report. If the act does not approve the report due to non-compliance with the law and ethics, it may request the vomediator to change the act provided that the time specified in Article 17 of this Regulation is complied with. (Vom Reg. LCP a. 18/5)

In the vom process carried out during the prosecution phase, the judge is given the authority to approve or approve the reconciliation report of the prosecutor during the investigation phase (Vom Reg. LCP a. 25)

Reconciliation report is fundamentally a document that allows the Reconciliation Bureau prosecutor to check whether the vom proceedings are in compliance with the law and regulation. It is a narrow definition that the legislation only allows the conclusions of the vomediation to be evaluated within the framework of the reconciliation report (Vom Reg. LCP a.18/4-5) The prosecutor should examine the reconciliation report during the investigation phase and the judge during the prosecution phase should evaluate not only the actions determined as a result of the vom but also whether the whole vom process is carried out in accordance with the legislation and should not approve or approve the reconciliation report. Vom Reg. LCP a.18/4-5 provision of this comprehension will be useful to reorganize.

After explaining the basic concepts of Criminal Law and vomediation, the steps of vomediation process will be explained.

1.2. PROCESS OF VICTIM OFFENDER MEDIATION AND ITS STAGES

In this part, the process of vom and its stages will be examined in detail. Our aim in this study is to clarify the functioning of the process by revealing the stages of the settlement process respectively. Since the focus of our study is the virtuousness of the vomediators and how their virtues will contribute to vom process, it is important to first explain vom process and its stages.

Erdal Yerdelen and Mustafa Serdar Özbek who are the writers of the “Conciliation Training Book in Law of Criminal Procedure” (Mustafa Serdar Özbek is also one of the editors), wrote another book about Vom with the participation other writers that will be mentioned below, it is stated that the vom process consists of the following four main stage.

- 1) Transfer of file to the vomediator.
- 2) Make preparations for vom.
- 3) Vom meetings.
- 4) Follow-up of the act. (Yerdelen, et al. ,2018: 73)

It will be tried to give instructions of the vom process instances based on the main topics in this work.

1.2.1. Transfer of File to Victim Offender Victim Offender Mediator

Vom process begins with the sending of the criminal file to the Reconciliation Bureau office by the public prosecutor's office or the court conducting the prosecution (Vom Reg. LCP a.10/2, a.22/1)

When the files sent to the Reconciliation Bureau during the investigation phase, the presence of sufficient suspicion that the perpetrator has committed the crime is researched. As a result of the examination of the file by the prosecutor in the Reconciliation Bureau, the vom file and the related offense is appropriate for vom, upon the approval of the Reconciliation Bureau prosecutor, the vomediator is automatically submitted to the vomediator registered in the Vom Registry of the Ministry of Justice through the Vom Registry. (Vom Reg. LCP a.12 /1)

During the prosecution phase, the file sent by court is delivered to the vomediator. (Vom Reg. LCP a. 23 /1)

1.2.2. Preparations for Victim Offender Mediaton

Vom preparation phase starts with giving appropriate documents which are in the investigation file to the vomediator and ended up with negotiations. During the preparation phase of the vom, vomediator's duty is to inform the perpetrator in special negotiations with the parties and prepare them for the vom process; the consent of the victim in participating and preparing for the vomediation process and the programming of the joint vom meeting. (Yerdelen, et al. , 2018: 73)

In addition to these preparations, one aspect preparation for vom is the vomediator's preparation himself/herself. (Kaynar,<https://www.academia.edu/-34892969>,10.06.2019:1) It may be useful to assess the vomediator's preparation beyond technical preparations. In one aspect of the preparation, it can be considered that the vomediator has a mood and approach appropriate to the essence and role of the task in the process. The most basic aspect of this approach can be thought of as "nonviolence in thoughts, words and movements." (Gandhi, 1925 / 1963: 121). Gandhi reveals his commitment to the principle of nonviolence (Gandhi, 1925/1963:121,428) as an important historical personality and also as a lawyer who reconciles many conflicts by consensus.

"Each of us must be the change that we want to see in the world." (Nazareth quoted from Gandhi, 2014: 179) In order to internalize the role of the vomediator who is the manager of the process with the principle of healing of the parties, it may be important to take steps towards self-healing in terms of "nonviolence ". In this sense, it can contribute to the integration of the conciliator with his / her role of discrimination, judging, accusatory, prejudiced, rude attitude and striving to get away from thoughts, words and behaviors that see differences as an occasion of superiority or inferiority.

Another aspect of the vomediator's preparation should be to examine the dispute between the parties. In order to understand the sources and dynamics of the dispute, he should conduct conflict analysis by gathering information and evaluating.

(Moore, 2016:106) Analysis of the dispute in the light of the available data (suspected / accused statement, victim / complainant statement, witness statements, reports, minutes) and the approach to the crime-related responsibility in relation to the suspect, whether he took responsibility, in relation to the victim / complainant, in the way of vom and restorative it will be possible to evaluate the possibilities of the process and the result.

It is important to understand the potential causes and dynamics of a conflict as early as possible. (Moore, 2016: 106) Vomediator should have determined what the conflict is as a result of this analysis (provided that it is open to revision as a result of negotiations with the parties).

Another aspect of the preparation for vom is the preparation of the environment. (Kaynar, <https://www.academia.edu/34892969>,10.06.2019:1)

“In mediation processes, the mediator should always aim to establish and maintain a positive environment for mediation and reconciliation negotiations between the parties; to this end, the mediator negotiates the continuity of the negotiations and provides an environment for overcoming challenging problems between the parties.” (Özbek, M. , 2013 :570)

In addition to physical preparing or supervising the vom environment/ atmosphere and beyond, the vomediator should try to create a favorable atmosphere in accordance with the nature of vomediator in the environment with various and detailed approaches. Vom negotiations should be conducted in a safe climate (Folger, et al. ,2013: 208), which allows vom, reduces stress, tension, and is suitable for the parties to feel and express themselves. The purpose, as always, is to empower, to provide safety, and to create a context and an environment in which the healing potential of a genuine human encounter can flourish. (Umbreit, 2001:102)

The positive atmosphere created by the vomediator, which was initially created and maintained throughout the process, will contribute to the conditions for mobilizing the potential for the healing of the parties. ” The atmosphere has a strong impact as a determinant of whether or not people will achieve something together. (Folger, et. al. , 2013:207) The atmosphere is being created through the instrument of interactions. (Folger et al. , 2013: 207) A positive atmosphere ensures that the interest of the participants continues and is open to each other's comments. (Folger, et al. , 2013: 207) Since vom is an informal procedure, it has a negotiation

environment in which feelings and thoughts are explained sincerely and openly. Negotiations started in good faith will continue in a moderate atmosphere and the parties will reach a compromise. (Özbek M. quoted from Kovach, 2013: 560)

The environment in which the vom process will be carried out as part of the positive atmosphere must be designed in accordance with the Vomediatio institution; furniture, accessories, photographs, pictures, color of the wall paint in the meeting area should include this suitability. In addition, the vomediator's clothing should be in a style that supports this positive climate. The vom environment created by this effort and effort may contribute to the parties' handling the dispute in accordance with the objectives of the vom institution.

1.2.2.1. Informing Offender and Preparing For The Process

At this stage, the vom procedures and principles of the legal consequences and information is given to the offender and the story (incidents) of the offender is listened. Informing the offender within the framework of restorative justice, rights, the nature of the vom (the basic principles, the function of the vomediator, the parties, the impartiality of the vomediator, the vom process, the conclusions, the obligation of secrecy, the vom fee), the legal consequences of the decision to be made, and the good faith participation in the negotiations. At this stage, the attempt of the suspect to empathize the offender starts. (Yerdelen, et al. , 2018: 73) From this point of view, the actions aimed at providing restorative justice are explained to the offender with examples. How the offender approaches responsibility for the event and the ability to meet possible actions is evaluated. (Yerdelen, et al. ,2018: 73)

Vomediator propose to offender the vom and gives information. (LCP a. 253/5, Vom Reg. LCP a. 29) Vom proposal is primarily intended to determine the parties' decisions as to whether they will enter the vom path as an attempt to restore restorative justice. The party accepting the offer of compromise is not considered to have been compromised. At this stage, he only agrees to negotiate about the dispute. In order for the vom process to continue, both parties, and of course the perpetrator, must accept the offer of vomediator.

The suspected/accused shall make a decision of acceptance or rejection of the vom proposal within three days by considering one of the options to notify the decision and then signing the proposal form. If the decision is not notified to the vomediator during this period, the vom proposal shall be considered as rejected. (LCP a.253/4, Vom Reg. LCP a.30) If the suspected /accused accepts the vomediator offer and the complainant accepts the vomediator offer as well, the file enters the vom process. As a result of the fact that both parties accept the compromise proposal, it is possible for them to start the negotiations legally.

1.2.2.2. Informing Victim and Preparation for the Process

The victim is called for private interview; this time the incident is heard from the victim; vom procedures and principles and benefits are explained. (Yerdelen, et al. , 2018 : 73)

The victim; rights, restorative justice approach, the nature of the vom (the basic principles, the function of the vomediator, the parties, the vomediator's impartiality, vom process and results, confidentiality obligation, vomediator's fee). Information about legal consequences of the decision and the goodwill of the participants in negotiations, ethical principles of respect for each other are given. (Kaynar, <https://www.academia.edu/34892969>,10.06.2019:1)

After vomediator informs the plaintiff about the vom, he proposes the way of vomedation. The plaintiff makes his or her decision regarding the offer of vom within three days of acceptance, by selecting one of the options for notifying the decision and signing the proposal form. If the decision is not notified to the Vomediator during this period, the vom proposal shall be considered as rejected. (LCP a.253/30, Vom Reg. LCP a.29) In case the complainant accepts the offer of compromise and the suspect-accused accepts the offer of compromise, the file enters the settlement path. As a result of both parties accepting the compromise proposal, it is possible for them to start the negotiations legally.

1.2.3. Meetings of Victim Offender Mediation

Yerdelen, et al. specify that the vom phase; begins with the first face-to-face meeting between the victim and the perpetrator and end with the approval of the agreement reflected in the vom report. (Yerdelen, et al. , 2018: 73)

From this point of view, it can be said that the vom phase consist of two parts.

1) Negotiation

2) Preparation of vom report, obtaining the signatures of the parties and submission to the Vom Office

The first part of vom phase is the start and continuation of the negotiation process. Although the main parties are to come together and negotiate, the parties may not want to come together in many cases or may not be appropriate even if they want to come together.

If the parties do not wish to come together or if it is not appropriate for them to come together, negotiations shall be conducted through indirect negotiations. Vomediator may meet with the parties separately or together, and it is possible to conduct and complete the process through indirect negotiations by negotiating separately without bringing the parties together. (Vom Reg. LCP a.31/3) It is a phenomenon that has been identified at different dates in many studies in which open conflict with other people is extremely stressful. (Hayes, 2011: 37) One of the main reasons for not wanting to come together in vom is negotiations may be that the discussion of crime-related facts is accepted as an environment of such conflict with the other party and it is desirable to avoid this.

However, rather than avoiding contact with the other party, it may be in particular those parties that demand to be brought together. The ideal in the restorative justice approach is to bring together the parties in vom negotiations to create the opportunity to evaluate the dispute and the restorative results together. (United Nations Office On Drugs and Crime, 2006: 18)

In this case, the management of vom, negotiations should be evaluated in two ways: negotiations with joint meetings and negotiations with indirect negotiations.

As a result of the preparatory negotiations held by the vomediator with the parties, we consider that as the leader of the process, he can decide that the parties

not to hold a joint meeting, against the will of the parties. Because vomediator has to observe the interests of the parties and is the leader of the process. (Vom Reg. LCP a. 4/1-1)

Eventually, vom or negotiation phase can start with together or separate meetings. If the negotiations are held in separate meetings; vomediator manages process through indirect negotiations with both parties within the framework of restorative justice. In these meetings, vomediator tries to establish communication between parties through himself. He encourages parties towards honesty. (Vom Reg. LCP a.6/a) While making this incentive, he tries to make the parties feel safe by emphasizing the privacy principle.(Vom Reg. LCP a.5/7)

Negotiations result in the completion of negotiations. As a result of negotiation process, vomediator has to prepare a vom report in order to present the conclusions of the negotiations to the Reconciliation Bureau. Vom report is signed by the parties and the vomediator. In the event that one of the parties does not sign it, it shall be indicated in the report that it refrains from signing and submitted to the Reconciliation Bureau. Vomediator's task with the file results in the submission of vom report to the prosecutor and approval of the report. As a result of the approval of the Reconciliation Bureau prosecutor's vom report, vom phase will be concluded. (LCP a.253/17, Vom Reg. LCP a.18/4)

The prosecutor of Reconciliation Bureau shall not approve reconciliaiton report if he considers that the agreed act is contrary to the law and morality. In this case, vomediator's duty will continue exceptionally. In this case, vomediator invites the parties to resume the negotiations for the purpose of negotiating the performance issue. Upon the conclusion of the negotiation, he re-prepares vom report and submits it to Reconciliation Bureau. Vom phase results in vom report of the Reconciliation Bureau prosecutor / judge (LCP a.253/17,Vom Reg. LCP a.18/4-25/4)

In case of vom negotiations, follow-up of the agreed performance has been completed. The next step, which is the follow-up of the settlement result, is performed by Reconciliation Bureau. Now it can be examined the stage of monitoring vom outcome that Reconciliation Bureau should conduct.

1.2.4. Victim Offender Mediation Follow-Up Phase

Following vom result, the vomediator submits vom report to Vom Bureau; the public prosecutor in charge of Reconciliation Bureau of the agreed remedial agreement and the prosecution phase begins with court approval and ends with the final decision. (Yerdelen, et al. , 2018: 77)

In Turkish law, the follow-up phase is the responsibility of Reconciliation Bureau , not vomediator in the investigation phase. (Yerdelen, et al. , 2018: 77) Within the framework of this responsibility, it can be considered that the establishment of special units following conclusions in the conciliation offices will be beneficial for the suspect / accused and complainant.

It can be considered that informing the parties to the agreement by SMS in the capacity of follow-up unit will help the suspect / accused who hesitates about what to do after the act. It may also be considered that such information would assist the complainant in making the unit known to be known and what to do if the act is not fulfilled.

So far vom process and its stages have been reviewed. In this study, the relationship between mediation and vomediation should be put forward in order for the explanations after this point to be placed on a healthy basis.

1.3 RELATIONSHIP OF VICTIM OFFENDER MEDIATION PROCESS AND MEDIATION PROCESS

Considering the vomediation institution in the context of its relationship with mediation is necessary in order to correctly understand the concepts used in our study and to evaluate some of the shared information correctly.

Although the basic principles are always the same, mediation is not a monotype procedure. Mediation includes different models taking place in different jurisdictions, each of which has unique characteristics. (eg: commercial mediation, neighborhood mediation, community mediation, labor law mediation, divorce mediation, offender victim mediation). (Özbek, M. , 2013: 557) Although vom programs are unusual in terms of mediation techniques, there is no contradiction to

the basic definition and criteria of mediation in legal disputes. However, since the framework for the implementation of vom is quite unusual, there are some significant differences with other mediation practices. (Yerdelen, et. al. , 2018: 78)

In the Restorative Justice Handbook prepared by the United Nations, with description” In Europe and in many other parts of the world, the process is often referred to by means of the technique that most models have in common, that is “mediation” as distinct from legal adjudication.”(United Nations Office On Drugs and Crime, 2006: 6) relationship of vom and mediation is disclosed.

Vom and mediation are often used interchangeably; besides, in a very small number of legal systems, Vom and mediation appear to be separated.. (Özbek M. , 2013 :762) Howard Zehr, who is considered to be the pioneer of restorative justice, is one of those who have this idea.Zehr considers that restorative justice and mediation programs bring the parties together, and that the approaches of the mediator are common, but that restorative justice practices and thus vomediation are not mediation and that the term mediation does not meet those in the restorative justice process. (Zehr, 2014: 10). In return, Mark Umbreit, one of the important figures of restorative justice and vomediation, is the author of the book, which he called mediation ’victim-offender mediation. However, he emphasizes some distinctions between mediation and vom too.”While many other types of mediation are largely “settlement driven,” victim offender mediation is primarily “dialogue driven,” with the emphasis on victim healing, offender accountability, and restoration of losses.”(Umbreit, 2001: 30)

In the Council of Europe's guidance on better implementation of Recommendation on Mediation in Criminal Disputes, the ethical rules clearly show how the mediation vomediation relationship is perceived within the Council of Europe.

Considering that the European Code of Ethics on Vomediators, developed for legal and commercial mediation, is more widely adopted among various mediators across Europe, it is recommended to prepare specific codes of ethics that take into account the specific characteristics of mediation in criminal disputes.”(Özbek M. 2013: 1222)

According to the approach in the Council of Europe report, vom is perceived by the Council of Europe as a type of mediation; however, it is also stated that it has unique characteristics due to mediation in criminal disputes.

Vom is generally accepted as one of the types of mediation, but due to its unique structure and nature, it contains important subtle distinctions over mediation. In any case, they benefit from a common pool of models, techniques, strategies and qualifications and skills of the impartial 3rd person managing the process used in process management in both organizations.

In terms of the qualifications and skills of vomediators, there is a common understanding in the scientific literature, regardless of the type of conflict. Therefore, unless a specific distinction is made in the context of qualifications and skills, the information provided applies to all vomediators and mediators regardless of the type of dispute in which they operate.

Vomediators institution is technically tried to be explained above. In the next section of our study, the restorative justice which constitutes the intellectual basis of conciliation will be explained. Thus, it is aimed to explain the necessity of virtue and virtuousness of vomediator in the process in detail and in a holistic way.

1.4. RESTORATIVE JUSTICE AS THE INTELLECTUAL BASIS OF VICTIM OFFENDER MEDIATION

In this part will be focused on the restorative justice approach, which is the intellectual basis of the vomediators institution. It is aimed to emphasize the link between the restorative justice approach and the virtues that the vomediator should have in the process. "Restorative justice is a process in which all stakeholders affected by an injustice have the opportunity to discuss how they are affected by the injustice and what needs to be done to repair the harm they have suffered." (Moore quoted from Brathwaite, 2016: 52)

Restorative justice practices may vary depending on circumstances and conditions. Examples of restorative justice practice models arising from different relationships are: programs that include victim-directed interventions, family conferences, victim offender mediation, victim panels, the penalizing or reconciling community, community correctional committees with which the perpetrator is involved,

programs for the development of the perpetrator's ability and personal capacity, lessons for understanding the feelings of the perpetrator, community based help groups, community-based help groups for criminals. (Birleşmiş Milletler Kalkınma Programı, T.C. Adalet Bakanlığı, 2009: 12)

Thus, victim offender mediation appears to be one of the restorative justice programs. Restorative justice encourages the entire community to be involved in holding the offender accountable and promoting a healing response to the needs of victims and offenders. (Umbreit, 2001: 18) Restorative justice is a process, restorative, educative, forgiving, particularly imposes responsibility for the perpetrator and encourages community participation and negotiation. (Birleşmiş Milletler Kalkınma Programı, Türkiye Cumhuriyeti Adalet Bakanlığı, 2009: 11) The restorative justice approach can be considered to be the intellectual basis of victim offender mediation with these aspects.

Restorative justice, unlike the classical criminal justice system, deals primarily and particularly with the victim and is based on the paradigm of the need for justice healing victim.

Most modern criminal justice systems give priority to violations of the law, punishment of perpetrators and other interests. Victims of crime remain secondary and do not get the necessary attention. Since the crime is thought to have been committed against the state, the state embraces the dispute and decides how to react to it. Thus, the shaped criminal justice system is offender-driven, dealing with the offender almost entirely and the victim is often neglected in the criminal justice system. During the investigation and prosecution phases, neither the needs nor the preferences of the victims are taken into consideration. (Özbek, M., quoted from de Freitas, Vergini, 2013: 899)

On the other hand, the approach of restorative justice in terms of crime, the role of the parties in the process and the response to the crime is different from the classical understanding of criminal procedure. “But while it is based on a radical critique of criminal justice, in reality, restorative justice remains a model that operates in parallel with, interacts with and cooperates with criminal justice. “ (Agtas, 2013: 265)

Restorative justice provides a completely different framework for the response to crime. Here, the crime is primarily considered as an interpersonal conflict and the victim of the crime is seen as an injustice, not the state. Instead of

participating in the process passively, the offender will understand the consequences of the action and accept responsibility for those consequences and try to eliminate the damage. The reason why this concept is described as restorative justice is that restorative justice is primarily concerned with the act of 'repair (the restoration of the injustice suffered by the victim, the correction of the offender for the purpose of living in accordance with the law and the restoration of the damage suffered by the society). As an internationally accepted term, restorative justice, unlike classical criminal justice, approaches the concept of justice more constructively, tries to establish positive relations between the parties and takes a negative approach to the phenomenon of punishment.. (Birleşmiş Milletler Kalkınma Programı, T.C. Adalet Bakanlığı, 2009: 11) Restorative justice expands the circle of stakeholders—those with a stake or standing in the event or the case—beyond just the government and the offender to include victims and community members also. (Zehr, 2014: 15).

Restorative justice approach is important not only for the restorative outcome but also for the maintenance of the repair process. “The term restorative justice programmes mean: “any programme that uses restorative processes and seeks to achieve restorative outcomes”. (United Nations Office On Drugs and Crime, 2006: 6) “Restorative outcome” is an agreement reached as a result of a restorative process.” (United Nations Office On Drugs and Crime, 2006 : 6)

Again, restorative justice aims to eliminate the negative effects of the crime by taking into account the needs of the affected people. In this approach, it provides an opportunity to focus on the negative impacts of the crime on both the victim and the perpetrator, and in line with the active participation and needs of the parties, to approach and eliminate these negative effects. In this context, the offender is rehabilitated, the damage suffered by the victim and the community is repaired and the perpetrator undertakes responsibility to accept and compensate the offender.”(Birleşmiş Milletler Kalkınma Programı, T.C. Adalet Bakanlığı, 2009: 11)

Within this framework, it is necessary to carry out restorative justice programs not result-based but process-oriented. Zehr outlines the framework of restorative justice that we have tried to explain so far.” Three pillars of restorative justice; harms and needs, obligations, and engagement.”(Zehr, 2014: 24)The functions of restorative justice are not limited to these. Another function of restorative justice is healing. Umbreit, developed a model called humanitarian mediation within the framework of the unique characteristics of victim offender

mediation, and laid the healing paradigm at the basis of this model.” Where as typical conflict resolution and mediation follow a problem solving model, peacemaking and humanistic mediation are grounded in a paradigm of healing.”(Umbreit, 2001: 297) In addition to Umbreit’s paradigm of healing, Zehr emphasizes the “put things as right as possible” paradigm. Restorative justice is a process to involve, to the extent possible, those who have a stake in a specific offense and to collectively identify and address harms, needs, and obligations, in order to heal and put things as right as possible. (Zehr, 2014: 39)From this point of view, it is possible to say that restorative justice has two overlapping paradigmas “Healing” and “put things as right as possible.”

It can be considered that the vomediator's management of the process by adopting restorative principles is necessary to achieve the expected benefits from the vom process. Within the framework of these principles, it can be considered that by evaluating the restorative process and the restorative result as a whole, managing the process constitutes an important issue in meeting the needs of the parties. In this context, the application of some restorative justice principles developed in the literature will be the cornerstones for achieving restorative justice. “Restorative justice gives as much importance to the process as to the outcome.” (United Nations Office On Drugs and Crime, 2006 : 6) On the basis of this approach, it may be possible to assess that restorative justice cannot be achieved only by a positive result, but that it is also important that the process is restorative.

While implementing the restorative justice approach, it can be considered beneficial to act within the framework of guiding principles for the mediator against the diversity of needs. Even if an agreement cannot be reached as a result of this paradigm, trust and loyalty to restorative justice can be felt and it will be possible to attain partially the results targeted by restorative justice. Zehr expresses the principles of restorative justice that must be reflected in every stage of the process:

This restorative lens or philosophy has five key principles or actions: Focus on the harms and consequent needs of the victims, as well as the communities’ and the offenders’;Address the obligations that result from those harms (the obligations of the offenders, as well as the communities’ and society’s); Use inclusive, collaborative processes; Involve those with a legitimate stake in the situation, including victims, offenders, community members, and society; seek to put right the wrongs. (Zehr, 2014: 35)

Allan Edward Barsky determined the principles of restorative justice by this means: “Respect, Responsibility, Restoration (making The Stituation Right), Healing, Relationships, Concencus, Truth, Safety” (Barsky, 2017: 168-177)

Restorative justice principles that emphasized by Zehr and Barsky seem to overlap significantly. It is possible to consider that restorative justice principles will contribute to peaceful and effective process management. Considering all these important functions of restorative justice, it is possible to assess the necessity of being careful to ensure the competence of the vomediator. In the next section, the skills and qualifications that will enable the vomediator to perform his role effectively will be examined.

1.5. SKILLS AND QUALIFICATIONS OF MEDIATOR

Under this heading, the skills and qualifications of the mediator will be discussed. The aim of this part is to reflect the discussion in the literature on the factors of qualifications and skills that a qualified mediator should have. In addition, it is the other purpose of this part to determine the status of virtues and virtuousness among the factors highlighted, and finally to determine the relationship between the qualities and skills highlighted and the virtues and virtuousness of the vomediator in the vom process, which is the main purpose of our study. First of all, by defining these two concepts briefly, we think it would be appropriate to develop the subject.

In the TLA dictionary; Stating how something is, distinguishes it from other things, qualification, arbitrariness: the property of something good or bad, quality and individual, object or a feature that distinguishes one aspect of life and property defined as qualification. (TLA, <http://sozluk.gov.tr/>, 14.06.2019)

Etymologically quality, “ In new Turkish, arbitrariness in Turkish, nite + lik refers to how much and what; in French qualite and Latin qualis (how) and in Ottoman arbitrariness, in Arabic Kayfa (how) is derived as a meaning.” (Nişanyan, 2012: 450)

The quality is defined in the Dictionary of Philosophy as talent, skill, merit “virtue” among many other meanings. (Hançerlioğlu, 1999 : 281) Skill in TLA

dictionary defined as; be capable, mastership, dexterity and ability of a person to accomplish a job depending on his / her predisposition and learning. (TLA,<http://sozluk.gov.tr/>,14.06.2019) Etymologically “quality” defined as; the word “beceri” (skill) came from the root “becer” (to be able to) which means “dexterity” or “skill” actually and the root means wholly “succeed” (Nişanyan, 2012 : 61) Aristotle defined “quality” as “There is a skill that we call resourcefulness: it makes it possible to do things that among the goal we prefer and achieve that goal.” (Aristotle, 2005 :127,128)

After defining the concepts of skills and qualifications, we can first review the reflection of the qualified mediator in some important international documents by reviewing the literature on the skill and qualification of the qualified mediator. A wide variety of ideas are presented in the literature about what skills and qualifications a qualified mediator should have.

“One of the most complex and hotly debated issues in the academics of Alternative Dispute Resolution (ADR) is the question of what kind of qualifications should be required of mediators.”(Hill, “Qualifications Requirement of Mediators” (Hill,<https://scholarship.law.missouri.edu/cgi/viewcontent.cgi?referer=https://tr.search.yahoo.com/&httpsredir=1&article=1354&context=jdr>,10.06.2019:1) From now on, ADR abbreviation will be used instead of Alternative Dispute Resolution. “Currently, there is no -universal standard for mediator qualifications; this may be due to the fact that mediation is not yet as institutionalized a profession as law or medicine.” (Devine,’<https://heinonline.org/HOL/LandingPage?handle=hein.journals/stlp112&div=14&id=&page=&t=1562135131>’,10.06.2019:189)

Being institutionalize of the mediation and vomediation so for that purpose create standards and conductors, also with the purpose of identify qualified mediators’ standarts take the initiative of international organizations can be seen.

It would be useful to identify the United Nations approach to the problem of qualified mediator by examining the 2002 resolutions that is “Basic principles on the use of restorative justice programmes in criminal matters” within the scope of our subject.(<https://www.un.org/ruleoflaw/blog/document/basic-principles-on-the-use-of-restorative-justice-programmes-in-criminal-matters/>17.06.2019)

With these decisions, the United Nations has tried to determine the standards of the qualified mediator in the framework of the following.

The definition of facilitator is made in Article 5 of the decision. “Facilitator” means a person whose role is to facilitate, in a fair and impartial manner, the participation of the parties in a restorative process. In the definition of the mediator reflected in the report of the United Nations, fair and impartial qualities are mentioned. On the other hand, the participation of the parties in restorative process skills are emphasized.

In article 12, “The qualifications, training and assessment of facilitators” have been emphasized under heading (c), respecting the basic principles of restorative justice as a guide and standardization in restorative justice programs.

In article 13, the basic procedural safeguards guaranteeing that the offender and the victim are justified, under this heading (c), stating the need to apply to restorative justice programs and especially restorative processes (Neither the victim nor the offender should be coerced, or induced by unfair means, to participate in restorative processes or to accept restorative outcomes), article 13 relates in its entirety to the nature and virtue of being fair.

It is indicated in the article 18 as required; facilitators should perform their duties in an impartial manner, with due respect to the dignity of the parties. In that capacity, facilitators should ensure that the parties act with respect towards each other and enable the parties to find a relevant solution among themselves. The quality of objectivity is the respectable acceptance of the parties. On the other hand, the skills of the parties to respect each other and to find a suitable solution among themselves are emphasized.

As determined in the article 19, facilitators should possess a good understanding of local cultures and communities and, where appropriate, receive initial training before taking up facilitation duties, Facilitators should possess a good understanding of local cultures and communities competence can be related to the mediator's knowledge, skills and qualifications.

The Council of Europe has also adopted recommendations on mediation, Council of Europe Committee of Ministers Recommendation No. R (99) 19. of the Committee of Ministers (<https://rm.coe.int/1680706970>) to member States

concerning mediation in penal matters, including the objective of contributing to the process of setting the standards of a qualified mediator.

The parts of Council of Europe recommendations that we can relate to the standards of the qualified mediator are:

“The operation of mediation services” entitled of section V’s ‘Qualifications and training of mediators’ sub-titled of chapter V.2;

In Recommendation 22, “Vomediators should generally possess good understanding of local cultures and communities.” It is determined to a standard that can be formed by combining knowledge, skills and qualifications.

In Recommendation 2, “Vomediators should be able to demonstrate sound judgment and interpersonal skills necessary to mediation.” with the emphasis on skills and qualifications can be formed with the standards set.

In Recommendation 24, “Vomediators should receive initial training before taking up mediation duties as well as in-service training. Their training should aim at providing for a high level of competence, taking into account conflict resolution skills, the specific requirements of working with victims and offenders and basic knowledge of the criminal justice system.” the emphasis of the decision and the necessity of the training of mediators and the elements of the content of the training were emphasized and a standard for mediator training was determined.

In addition to this, in the report prepared as a result of the survey applied Council of Europe, European Commission for the efficiency of justice (CEPEJ); explain that there are differences between the qualifications of mediators. Once more in the relevant section of the report, under section 1.5, the quality of mediation programs, it is mentioned that, it is necessary to ensure the quality of mediation in terms of public confidence in the mediation process. Moreover, the mediator's behavior and ethical rules are mentioned among the issues that should be included as a minimum in mediator training.

It is possible to relate virtues and virtuousness of vomediator with standarts stated in vomediation advisory jurisdiction, it is linked to virtues and virtuousness of the vomediator.

In order to determine the standards of the qualified mediator, there is the work of Non Governmental Organizations. (NGO) From now on, NGO abbreviation

will be used instead of Non Governmental Organizations. “The professional mediation organizations have each responded differently to the idea of mediator qualifications, ranging from minimal to very exacting standards on the back ground necessary for membership.”(Devine,<https://heinonline.org/HOL/LandingPage?handle=hein.journals/stlpl12&div=14&id=&page=&t=1562135131>,10.06.2019:187)

The mediation profession rules of many mediation professional organizations, especially the Society of Professionals in Dispute Resolution (SPIDR), have been tried to establish standards for some skills and qualifications required by the mediator. From now on, SPIDR abbreviation will be used instead of Society of Professionals in Dispute Resolution. One of the most important of these efforts is the Qualifying Neutrals, The Basic Principles report by SPIDR Commission on Qualifications in 1989, which identified a range of skills that should be developed in general for intermediaries and especially mediators.

In the context of virtue and virtues, which are the main subject of our study, we will examine this report published by SPIDR in detail in the relevant section of our study.

At this stage, we will consider SPIDR's 'Qualifying Neutrals, The Basic Principles' report in general. In the report, mediation skills 'are identified under seven main headings.

Under the first title, the skills required for impartially competent performance are generally specified in the mediators' context. Among the general neutrality skills, many skills such as analyzing problems, clarity in writing, using an impartial language were counted. Among the skills for mediators are skills such as gaining confidence, helping parties to creative options, and eliminating irreconcilable issues.

Under the second main title, the ability to have information about the dispute resolution process in use; familiarity with the current practice standards for conflict resolution and familiarity with common ethical dilemmas.

The skill mentioned in the seventh chapter is adherence to ethical standards. (Moore, 2016: 577,578,579)

In SPIDR report, it is possible to make a connection between the headings about the standards of vomediators listed above, with virtues and virtuousness of vomediator.

In addition to mediation organizations, some authors have tried to establish a framework for the standards of qualified mediators. There is little reference to the qualifications of mediators. (Whatling quoted from Roberts,2012: 26)

According to Simkin, a good mediator with examples from historical persons has stated a number of qualities and the qualities of a good mediator are: Eyüp's patience, the physical stamina of a marathon runner, Machiavelli's cunning, the personality examination skills of a good psychiatrist, the skin of a rhinoceros, a fundamental belief in human values and potential strengthened by proven honesty and impartiality, the ability to assess personal weaknesses and strong points, a stubborn ability to analyze what is possible, contrary to what is desired, sufficient personal impulse and ego characterized by the desire to keep oneself in the background. (Moore quoted , 2016 : 575,576)

Some of mediating qualifications that Roberts quoted from Landsberger, Raiffa, Stulberg are:

Originality of ideas, sense of appropriate humour, ability to act unobtrusively, the mediator as one of us, the mediator as respected authority, ability to understand quickly the complexities of a dispute, accumulated knowledge, Control over feelings, attitudes towards and persistence and patient effort, faith in voluntarism (in contrast to dictation), physical endurance, the wisdom of Solomon, The capacity to appreciate the Dynamics of the environment in which the dispute is occurring, intelligence (Quoted by Roberts, 2007:45,46)

In Turkey, it is possible to say that there is an important gap in the literature regarding the standards of qualified mediators. In the negotiation section of the Conciliation Training Book published by the Department of Alternative Solutions and based on the vomediation training and examination, the skills that the vomediator should have for negotiation management are stated by the relevant section author Şamil Demir . According to the author, general skills include:

Asking questions, active listening, summarizing, expressing in different words and re-framing; clear and understandable speech (on the phone and face to face) and use of written language, active listening, ability to ask open and closed ended questions appropriately formulated, to be sensitive about the sensitivities, gender, cultural structure and lifestyle differences of the parties, revealing complex and sometimes conflicting information, controlled and confident throughout the process; not to be seen as lost of control and anxious, calm down of the parties, softening the environment with restrained humor, managing negotiation with many people, being

aware of personal values and distinguishing this in the process of vom, self balancing, recognizing the tensions and power imbalances that may arise between the parties during the process and making the necessary interventions, respect both sides, non-router, benefit from the power of silence, protecting borders, tolerate uncertainties, protecting secrecy. (Demir, 2018: 175-180)

In addition, Demir, in the sample evaluation form of Annex 2 of the related book, under the title of mediation skills assessment form, emphasizes the other skills that the vomediator should have. (Demir, 2018:237-239) It can be assess that, most of the skills that Demir emphasized are related to virtues. and humor as the one of the virtues.

In the communication section of the related book, the author of the chapter, the skills that Recep Tayfun emphasized are: “the needs vomediator to develop include verbal and nonverbal communication skills, active listening, reframing, summarizing, asking questions and clarifying, reflecting, empathy, written communication skills, decision making skills, conflict analysis skills.” (Tayfun, 2018:201,217,218,219) It can be assess that, most of the skills that Tayfun emphasized are related to virtues.

In the field of ADR, parties, the courts, the relevant State authorities and other relevant persons; about the qualifications that the mediator should have questions before starting the mediation; one of these questions is whether these criteria will qualify a mediator. (Harges,<https://heinonline.org/HOL/-LandingPage?handle=hein.journals/byulr1997&div=30&id=&page=,10.06.2019:687>) The discussions and evaluations in the world literature on the factors that enable the mediator to be qualified; focuses on whether intellectual and technical knowledge is sufficient to be a qualified mediator. Training, experience, educational degrees, and successful performance on evaluation tests are all designed to make sure the mediators are qualified and have the skills necessary to mediate a case. (Hill, <https://scholarship.law.missouri.edu/cgi/viewcontent.cgi?referer=https://tr.search.yahoo.com/&httpsredir=1&article=1354&context=jdr,10.06.2019:43>)

When determining the factors that make up a qualified mediator, it is necessary to take a holistic approach to qualification. It is not possible to limit the qualified mediator to having only some technical knowledge, primarily because of

the broad definition of the qualification. In determining the factors that make up a qualified mediator, it may be considered not to limit the qualified mediator as having only some technical knowledge and to consider the material and spiritual aspects of the person together and in total.

It is not enough to teach people a specialty; with this, one becomes a useful machine, but cannot acquire a full personality; must acquire a sense of beauty and moral goodness; otherwise, the person is more like a well-trained dog than a well-developed person with expert knowledge. (Einstein, 1990:70,71) The value and power of a human being is not in the wideness of his knowledge, but in his self-determination, in his will to dominate, in his good habits and in spiritual manners. (Başgil, 2017: 12) Some ADR scholars have recognized that personal characteristics "may be more important than all of the other qualifications required of mediators. "Persistence, understanding, integrity, honesty, intelligence, listening, flexibility, sensitivity, and tolerance have all been deemed as qualities that help a mediator to be effective." (Hill, <https://scholarship.law.missouri.edu/cgi/viewcontent.cgi?referer=https://tr.search.yahoo.com/&httpsredir=1&article=1354&context=jdr>, 10.06.2019:44) According to Hartfield : "The right combination of personal qualities may be more important than any of the other criteria" (Devine; , <https://heinonline.org/HOL/-LandingPage?handle=hein.journals/stlp112&div=14&id=&page=&t=1562135131>, 10.06.2019,189) According to Hartfield and Honeyman: "a person may possess the skills to mediate simply by virtue of life experience." (Devine, <https://heinonline.org/HOL/LandingPage?handle=hein.journals/stlp112&div=14&id=&page=&t=1562135131>, 10.06.2019:207) Mevlana Celaleddini Rumi emphasizes that the personal qualities stemming from the character are the most important qualities beyond all other qualities with these words: "In the world of research, I have seen no perfection than good temper." (Rumi, 2007:193)

The relationship between the characteristics and the virtues will be examined in detail in the relevant section. In addition to this, Aristoteles reveals the relationship between character traits and virtues with his valuable works, especially *Nikomakhos Ethics*, *Eudemos Ethics* and *Magna Moralia*. "Habit is formed by a spirit appearance that is not independent of virtue." (Aristotle, 2005: 128) According to Naderly; "Good mediators have strong people skills and analytical

minds. They have a presence and generate the trust of the parties in both their competence and integrity. Experience and mentoring probably help, but these more personal qualities are the characteristics that really matter.’’ (Rogers, Sander quoted from Naderly) ,<https://heinonline.org/HOL/LandingPage?handle=hein.journals/-disput3&div=25&id=&page=&t=1562136825>,10.06.2019:5)

National Institute of Dispute Resolution (NIDR) organized 'The Panel on Vomediator Qualifications' in USA, 10.07.1987. Margaret L. Shaw, who is also the moderator of the panel, cites the following issues, which include important determinations in terms of the factors that make up a qualified mediator in general:

Without much debate, the panel members came to early consensus on the general factors they believed should be considered in determining mediator qualifications. Defined more specifically below, these factors are: personal qualities; mediation experience; negotiation experience; knowledge of the subject matter of the dispute; mediation training; and formal education. While there was not complete agreement on the exact ordering or weighting of these factors, the prevailing view of the panel was that personal qualities and mediation experience ranked the highest in terms of importance, and that negotiation experience followed closely. Mediation training and subject matter knowledge were also thought important, but to a lesser degree. Formal education, though a factor, was considered the least significant. (Shaw, "Mediator Qualifications:Report of a Symposium On Critical Issues in Alternatife Dispute Resolution",<https://heinonline.org/HOL/LandingPage?handle=hein.journals/sethlegj12&div=11&id=&page=&t=1562137350>,10.06.2019, 128)

Margaret L. Shaw emphasizes that there is consensus in the panel that the best mediators can be optimized through their own strengths and qualifications. (Shaw,<https://heinonline.org/HOL/LandingPage?handle=hein.journals/sethlegj12&div=11&id=&page=&t=1562137350>,10.06.2019 129,130)

Some of the personal qualities that contribute to the activity of the Mediator presented in the panel are: the ability to listen to underlying concerns, subtle offers of movement, and hidden agendas, integrity and unimpeachable honesty, intelligence, insight, proper expression / the ability of expressing properly, to give confidence to the management of the process, to take decisions in a timely, tactical and flexible way, sensitivity to the conditions and perceptions of the parties, as well as to the dynamics of the parties and the process, tolerance for stres, ability to be objective, to managethe conflict effectively. (Shaw,,<https://heinonline.org/HOL/LandingPage?>

handle=hein.journals/sethlegj12&div=11&id=&page=&t=1562137350,10.06.2019, 130)

“Key Stages and Tactics in Conflict Resolution Through Mediation” book author Elif Kismet Kekeç emphasizes the necessity of personal characteristics for a successful mediation and provided significant contribution to the Turkish literature. Kekeç also identified this properties as neutrality, objectivity, intelligence, flexibility, easy comprehension, effectiveness and persuasion, empathy, effective listener, creativity, respectability in society, skepticism, access to necessary resources, honesty, reliability, openness to criticism, understanding of humor, patience, determination, optimism and love to people. The personal qualities that Kekeç emphasized, love, humor and patience are the virtues. (Kekeç, 2014:107-111) In addition, many of the other personal characteristics (honesty, objectivity, flexibility, etc.) are related to virtues.

In this part of our study, we have determined that many mediator skills and qualifications are also virtues. Besides, we have linked the mediator’s virtues in the vom process with the vomediator’s some other qualities and skills. It is possible to associate many more skills and qualities mentioned in the literature with virtues. As a result, it is not possible to think of the vomediator’s skills and qualities separately from virtues and goodness. It will be explained in Chapter II of our thesis that virtues and virtuousness of vomediator can directly contribute to the reconciliation process.

“Victim offender mediation proponents often speak of their efforts as ways of humanizing the justice system.”(Umbreit, 2011: 201) Only a qualified mediator can contribute to the humanization of this justice system. The vomediator's virtues and goodness’ in the vom process are the basic means of this humanization, with skills and other qualities. How can a vomediator contribute to the vom process within the framework of the humanization of justice with virtues and goodness? In the second chapter of our study, the contribution of virtue and virtuousness to the vom process will be evaluated and contribution will be made to the gap in the literature.

CHAPTER TWO

VIRTUES AND VIRTUOUSNESS OF THE VICTIM OFFENDER MEDIATOR IN THE PROCESS OF VICTIM OFFENDER MEDIATION

2.1. VIRTUE, VIRTUOUSNESS CONCEPTS

Word of virtue is an old Turkish word, it was forgotten in Turkish in Republic of Turkey and it was revived in Language Revolution, Latin origin of it is “virtus”, it was derived from origin of “vir” which means male. (Nişanyan, 2012:168) It is defined in the dictionary of TLA as “general name of qualities such as being good praised by morality, humbleness, bravery, trueness etc., merit, spiritual maturity of human” (TLA, <http://sozluk.gov.tr/>, 14.06.2019)

Virtuous is defined as “the person who has virtue, the person who is virtuous, moral.” (TLA, <http://sozluk.gov.tr/>, 14.06.2019) Virtuousness is defined as “being virtuous, goodness” (TLA, <http://sozluk.gov.tr/>, 14.06.2019) “In terms of moral, virtue is tendency to behave well consistently, merit, power of behaving in the direction of goodness at the cost of will, when required bearing big self sacrifices and overcoming big obstacles.” (Foulquie, 1994:153)

While trying to explain the concept of virtue, it is considered that it would be useful to take Foulquie's definition of virtue as a basis. The points to be emphasized on the virtue definition of Foulquie are: The first point is that virtue is “power”. The second important point is that virtue is "power of behaving in the direction of goodness." The third important point is that virtue has a “direction”, the fourth important point is that virtue has will, “election”, action towards that direction. The fifth point in the virtue definition of Foulquie is that the election of the virtue is on goodness's side "consistently", it involves stability and continuity. (Foulquie, 1994:153)

The first point that we will emphasize about the virtue is that the virtue is power. The virtue of a human is what makes him/her human, more precisely it is unique, movable power which enables him/her to show typical perfection, namely (in normative meaning of the concept) it is his/her humanity. (Sponville, 2015: 16) In

order for the power as the virtue to be able to take action, the virtue needs to be carried by the subject and it needs to commune with the virtue.

“Strength and force” functions of the virtue have been underlined by also Hançerlioğlu (Hançerlioğlu, 1999: 88) Virtue of honesty has been included among “personal power resources” clearly in the book *Power, Influence and Persuasion* whose writer is Richard Luecke and publishing is Harvard Business School, besides a phenomenon in which “admiration and respected features” (Luecke, 2007 : 34) expression and also virtues can be involved has been put forward.

The power is necessary base for an active management. (Luecke, 2007 : 9) As director of vom process, vomediator should be able to manage process effectively in reparative justice principles framework. For this purpose, the virtues are also a resource of power that it should carry.

The second important point that we will state by starting from the virtue definition of Foulquie is that the virtue is power of behaving in the direction of goodness. This element expresses that the virtue is conscious. The virtue consists of the best motions of spirit and happening of the best works and affections of the spirit also depends upon it. (Aristotle, 2015: 26) There is nothing superior to, more beautiful than the virtue; everything done with its will is also good, desirable thing. (Seneca, 65 / 2018: 236) As well as happening of the best works and affections of the spirit depends upon the virtue, mentioned happening occurs only by carrying the virtue.

Then what is good? Not concrete conditions but the virtue determines whether something is good or bad. (Seneca, 65 / 2018: 253) However, according to Seneca, this is not a valid definition for every good. There are also varieties of the good, if we want to separate the good from each other, major good is the virtuousness consisting of virtuous behaviors. (Seneca, 65/ 2018: 221) Aristotle also distinguishes the term of good as following. “While some of the good like the virtues are in the spirit; some like health, beauty, external good (wealth, dominance, honour etc.) are in body. Among them, the things in the spirit are better.” (Aristotle, 2016: 39) “To put it all in simple terms, the virtue is the best condition.” (Aristotle, 2016: 45) The best condition of the person is that where he/she can realize his/her existence in highest level and can present his/her potentials most efficiently.

The means and directions that will be taken to the human by every adopted good will be certainly the means and directions special to this good. The means of the major good are the virtues, the direction of it is the virtuousness. The virtue is an existence way. (Sponville quoted from Aristotle, 2015: 17) The virtue is a precious thing, the human becomes good person through it because “somebody” communes with virtue form in this way. (Aristotle, 2016: 35) Carrying the virtues enables the human to reach an existence way communing with good. So we come to this conclusion that virtue brings power with itself,

It means that the power's being a function of the virtue is possible by setting out with virtue and actually being put forward in the direction of the goodness (virtue).

The third important point is that the virtue has a direction. This element expresses that the virtue has a nature of volunteer. Without having an intent, a direction of goodness, the behavior does not become virtuous. “The virtue does every thing that it does rightly, unobtrusively, with moderation and good will.” (Seneca, 65/2018: 224)

The fourth important point in the virtue definition of Foulquie is that the virtue has an election, an act towards that direction. It is necessary to be direction and look to the direction but it is not enough. It is necessary to act towards that direction. This element expresses that the virtue is voluntary. The purposes of all good are the things preferred on behalf of them. (Aristotle, 2015,107) The election is put forward with the behavior. The election and the behavior should be certainly in the direction of the virtues. “Those who follow the virtue join in the virtue. Those who lose the way and the virtue get lost. The way increases with those who join in the virtue, it decreases with those who lose the virtue.” (Lao Zi, 2016: 24)

According to the definition of Foulquie, it is necessary to appreciate and accept the virtue ideationally but it is not enough. It is not enough that the virtue is the power which takes action, the individual should have his/her election that he/she makes in the name of the virtue. “Both the virtue and the evil are in our hands; we can't do what we have to do, namely it is in our hand; we can say yes what we have to say no, namely it is in our hand; then it is in our hand that we do good; it is in our hand that we don't do ugly.” (Aristotle, 2005: 53) There should be the virtuous one in

this election so that the virtue can take action, it can not only create influence expected from itself but also carry it to the virtuousness.

This election is made with the virtues and it is on the virtue's side; it means that mind is also used. "The virtue is device of the mind." (Aristotle, 2015: 106) Virtuous person makes right judgement about the things one by one; his/her biggest difference from others is that he/she can see the truth in the things one by one. (Aristotle, 2005: 52)

"Doing activity which is appropriate to the virtue is the feature of the virtue". (Aristotle, 2005: 20). "We say the things, namely its whole works which spring from and stem from the virtue good." (Seneca, 65 / 2018: 271) So it means that the virtue should have works so that we can say it virtue. In order to be a work stemming from the virtue, the virtue needs to be a power which behaves. "The virtue in any case does good related to the thing where the virtue is." (Aristotle, 2016: 41). The more the human does good because of the virtue, he/she becomes good.

The fifth important point in the virtue definition of Foulquie is that the election of the virtue is on goodness's side consistently and it involves stability. This element expresses continuity of the virtue. One day being on goodness's side, the next day being on evil's side mean that the virtue hasn't been carried in that subject yet. Such an approach neither stems from the virtue nor takes to the virtuousness. "If the virtue doesn't tug at our heartstrings, if it stays there long time and doesn't include its color in the spirit but spreads it once-over-lightly, it ensures none of its promises." (Seneca, 65/ 2018: 255) We have put forward the meaning, the importance and the relationship with the goodness of the virtue and the virtuousness in human life by means of analyzing their various elements.

It is considered that continuation of the explanations about virtue by mentioning the types of virtue will be useful in explaining the concept with different dimensions. Aristotle mentions two virtue types in his works related to the ethics:

"There are two virtue types; one of them is thought virtue and the other one is character virtue. The thought virtue consists of education mostly and improves, therefore it necessitates experience and time. The character virtue is acquired with habit." (Aristotle, 2005: 30) Foresight can be cited for the thought virtue consisting

of the education, bravery virtue can be cited for the character virtue consisting of the experience and the time.

The virtuous character is also related to golden means and it should have the nature of midway. (Aristotle, 2015: 27)

Each object has an excess, a deficiency and a golden means; these are either for each other or for us... What is temperate in each object is the best for us. Because this is as ordered by knowledge and mind, it creates the best temper everywhere. The edges are opposed to both each other and the mid. Thus, the character virtue is also related to golden means and there should be a certain golden mean, this is obligatory. (Aristotle, 2015, 27)

“Then it is also necessary to tackle what kind of golden mean the virtue should be and to what kind of golden means it is related. Hotheadedness, stolidity, calmness, audaciousness, cowardice and bravery.”(Aristotle, 2015: 27, 28) can be cited.

The edges which are the excess and the deficiency correspond to the evil. (Aristotle, 2005: 41) Then being in good condition should be a temper aimed at the "golden means" of things like this that we regard as commendable in terms of themselves, the evil should be a temper aimed at their excess and deficiency. (Aristotle, 2016: 53)

The Vomediator should also have the virtues which are opposed to the evil and his/her virtuousness is necessary and important in the vom process. “If we perfect a good heart, improvement is made in all fields, in science, in agriculture, in politics because motive is very important; a good heart is both important and efficient for our daily life.” (Lama, 2000: 69) In vom process management, the goodness and the virtuousness of the vomediator who tries to actualize reparative justice principles related to the goodness such as healing, straightening the things that go wrong, ensuring mutual respect, maintaining relationships healthfully, encouraging offender to take responsibility are vital and important. “We ought to understand the individual human good as containing an important ethical component. A person’s individual good includes conducting his or her life in accordance with moral excellence.”(Rahim, 2001:207)

The vomediator should be a good person or at least he/she should be in an endeavour of being good person. He/she could say “the goodness and justice are on my side” (Aurelius, 2006: 82) during the vom process. The goodness and especially

stressed equitability which are necessary for vomediator can be also possible providing that the virtues are improved. “Being good person is having virtues.” (Aristotle, 2016: 23)

The goodness of the vomediator in the vom process is more important than his/her all other skills and qualities. “The fact that neutral person has a good reputation (fame) and character can lead to be adopted by parties and dynamize him/her in alternative dispute resolution (ADR) process. In some disputes, the success of the alternative dispute resolution process depends upon it. The neutral person should also be honest and moral.” (Özbek, M. 2013: 483) In the study, the abbreviation ADR may be used instead of alternative dispute resolution.

The virtue wraps itself up in various qualities according to duties that it will perform, it shows various faces, what it touches makes similar to itself, it gives its own color to it, it regulates behaviors and families, it beautifies, it makes the things that it touches cute and flamboyant, there can't be bigger loftiness than it owing to this power. (Seneca, 65 / 2018: 122)

For this reason, the virtues will create their positive impacts by touching the vom process through the vomediator. The concepts of virtues and virtuousness are examined together with their meaning and importance in human life. At the same time, the importance and necessity of the vomediator's virtues and virtuousness in vomediation process are emphasized. In the next part, it is thought that evaluating the approach related to the virtues and the virtuousness of the vomediator in the vom process are necessary in order to approach the subject integrally and determine current situation related to our thesis subject in international texts and legislation related to the vom in Turkey.

2.2. REGARDING THE RELATIONSHIP OF VICTIM OFFENDER MEDIATOR AND VIRTUES, EVALUATION IN INTERNATIONAL CONTEXT

Under this heading, the virtuousness and the virtues of the vomediator in the vom process will be analyzed in the framework of some important national and international texts related to the vom. At this stage, our purpose is to determine whether the virtuousness and the virtues of the vomediator in the vom process have

been tackled in some important national and international texts, if so, in what way they have been tackled.

Related to vom, both in International texts and in Turkish legislation, it is available to evaluate virtues within the frame of ethics.

The ethics is a concept which involves the virtue concept and it is usual that the virtue and the virtuousness are included within ethics subjects. Besides, virtues, preserving the relation with ethics, also find an expression in occupational standards and qualities of qualified vomediator. In the relationship between the ethics and the virtue, the ethics -from prehistoric period to nowadays- has tackled different questions that vary according to historical periods, the virtue has been one of the field of interest of the ethics, it has been researched in the framework of the questions like “What is justice? ,What is virtue? What is doing right act?” and with its other directions by philosophers. (Kuçuradi, Taşdelen, 2011: 11)

Therefore, before we continue our explanations, it is useful to define the virtue and mention the relationship between the ethics and the virtue in the framework of the virtues and the virtuousness of the vomediator which is main purpose of our thesis.

The ethics has been used etymologically “in the meanings of morals, moral as equivalent of *ethique* in French, in the meaning of moralistic as equivalent of *ethikos*, in the meanings of custom, customs, morals, manners as equivalent of *ethos*, in the meanings of forming a habit, getting used to as equivalent of *eiōtha* in Ancient Greek.” (Nişanyan, 2012:173)

The ethics has been used in the dictionary of Turkish Language Association in the meanings of “ethics, body of behaviors that the parties should obey or avoid among various occupation branches, ethics science, moral, moralistic.”(TLA, <http://sozluk.gov.tr/> 14.06.2019)

“Vomediators must obey certain codes of conduct in order for the vom process to be successful. Great importance is given to the codes of conduct in vom implementation in comparative law, various professional organizations and bodies of lawyers accept and publish the codes of conduct that members are supposed to obey.” (Özbek M. quoted from Brown / Marriott , 2013 : 977)

In the continuation of our study, we think that it is necessary to share ethical principles regarding the mediation and the vom, rules and principles determined by some important national and international organizations regarding occupational standards and standards of qualified mediators in the context of the virtuousness and the virtues of the vomediator in the process management which forms main subject of our thesis below.

2.2.1. Inter-Governmental Organizations

Under this title, we will try to examine the virtuousness and virtues of the vomediaitor in the process of governance in the documents of United Nations, European Council and European Union..

In 2002, the United Nations Economic and Social Council adopted a resolution containing a set of Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters. (<https://www.un.org/ruleoflaw/blog/document/basic-principles-on-the-use-of-restorative-justice-programmes-in-criminal-matters/17.06.2019>.)

These principles offer important guidance for policy makers, community organizations and criminal justice officials involved in the development of restorative justice response to crime in their society.

It is essential to state principally that in Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters, related to vomediator's virtues and virtuousness in vomedaition except for the fact that vomediator should be just; there is no direct information, principle or emphasis.

In advisory jurisdiction of vomediation in Penalty Disputes towards member countries in European Council Committee, there is no direct or clear emphasis on virtuousness of vomediator in the process of vomediation. We think that this should be accepted as an important deficiency.

In the meantime, in advisory jurisdiction of European Council, though the virtues are not mentioned directly, it can be stated that talents related, respect and developing ethic principles, the features of education of vomediators for "features for working with victims and suspects". However, it is not possible to say that European Council emphasize on virtues and virtuousness.

Directive 2012/29/EU of the European Parliament, establishing minimum standards on the rights, supports and protection of victims of crime directive are related to virtuousness and virtues of vomediator within the process of vom, though virtues and virtuousness are not mentioned directly. (European Union, <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1421925131614&uri=CELEX:32012L0029>, 17.06.2019)

Approach of respective, sensitive, tailored, professional and non-discriminatory manner towards the victim; “Victim’s Right to Understand and to be Understood” and “Right to Receive Information About Their Case” and “Right to Safeguards in the Context of Mediation and other Restorative Justice Services;” providing these rights is directly related to the virtues and virtuousness of the vomediator.

Within the frame of the research given above, we think that it is essential for the international foundations to make emphasis on virtues and virtuousness clearly and especially while arranging or modifying international manuals and standards on restorative justice, to encourage giving place in educational programmes and in forming the standards of qualified vomediator from the view of virtues.

2.2.2. Non-Governmental Organizations

It is understood from the ethic codes and notices that Non Governmental Organizations (NGO)’s have made, Non Governmental Organizations take initiative and make effort to make contribution to qualified vomediator. In the following explanations, instead of Non Governmental Organizations, the abbreviation NGO will be used.

Hereafter, we will focus on the fact that how some important NGO’s handle ethic codes, virtue and virtuousness within qualified vomediator and mediator and how we can relate these with determined ethic codes and standards.

As it is generally accepted that mediation and vomediation were born in North America, regarding to the fact that vomediator’s virtuousness and virtues in vomediation process, we think it is essential to evaluate the texts which are published in this continent.

In North America, (SPIDR) has been founded in 1972 to settle disputes in a peaceful manner. In the following explanations, instead of Society of Professionals in Dispute Resolution, the abbreviation SPIDR will be used. (In 2001 SPIDR, Family Conciliators and Dispute Resolution Education Network CREnet are United. In the following explanations, instead of Society of Professionals in Dispute Resolution, the abbreviation SPIDR will be used. (ACR) is founded as the biggest Mediation and Dispute Resolution Establishment of United States of America is founded. (Moore, 2016 : 584); SPIDR pioneered to organize international and regional meetings, develop qualifications and talents in a general aspect with many applications. (Moore, 2016: 583) In the following explanations, instead of Conflict Resolution Association, the abbreviation ACR will be used.

As dispute resolution area expands, applicants, public members, other related occupational groups and governmental organizations made effort to open ethic standarts and other responsibility mechanisms. (Moore quoted from Herman et. al.) 2016:586)

As a result of these efforts, professional responsibility occupational moral rules which has been updated standarts for ACR and the place which includes most mediators and the place where takes standarts for mediators; with these standarts, mediators are expected to be neutral, honest and unprejudiced, act with good will, be diligent, do not look after his/her own benefit, be fair while dealing with tha parties, do not have any benefits from the agreement, do not be prejudiced against individuals and institutions, reply to requests of the parties within reason, the parties should be given efficient information regarding to the process which they involved, are put forward. (Moore, 2016: 587) It is observed that the virtues such as justice, goodwill, moderation (diligence), diligence are defined as direct mediation ethical standards. As in the case of non-bias, some standards are considered to be strongly related to virtues, although not virtue.

In 1989, SPIDR qualification council prepared a report which they determined many talents which needs to be developed generally by intermediary and especially mediators, within these talents Commitment to Ethical Standarts (Moore, 2016: 577- 579) is given as a general heading. As ethics is related to virtue, it can be said that standarts related to forming, developing virtues and virtuousness can be

discussed. Again in the same report, under the headline of “skills necessary for an impartially competent performance”, commitment to honesty and sensibility towards gender, ethnical roots and cultural differences; honored behaviour, respect towards parties (Moore, 2016 : 578), is accepted as the skill which is necessarily developed.

All these behaviours which need to be developed under this heading, are related to the virtues and virtuousness of vomediator throughout the process of vomediation. Also honest ad honour can be evaluated as virtues directly.

In the report which is prepared to determine the standarts of the ones who will work neutrally, it can easily be said that variety of virtues and virtuousness of vomediator have not been put forward. Except for a few virtues which are referred, virtues and virtuousness are inwardly expressed in “commitment to ethical standarts” statement.

In 1994, Sample Occupational Moral Standarts for mediators, America Union of Arbitrators, America Bar Association Department of Dispute Resolution and Dispute Resolution Union (in 2001 SPIDR, family mediators and dispute resolution network (CREnet) united and ACR Association for Conflict Resolution which is the biggest conflict resolution foundation in USA and in the world.) (Moore, 2016: 584), joint committee which is from related foundations’ representatives arranged by modified the model standarts in 2005 again. (Moore, 2016 : 593)

It can be understood when we look at “Sample for Occupational Moral Standarts for Vomediators” modified in 2005, general tendency is objectivity, being distant to favoritism, prejudice, patriality, generating some moral standarts and expecting these standarts from mediators. (Moore, 2016: 595) It is possible to relate these terms with virtues and virtuousness of the mediator.

Other NGO which we want to analyze is Victim Offender Mediation Association (Voma) within virtues and virtuousness of vomediator. In the following explanations, instead of Victim Offender Mediation Association the abbreviation Voma will be used. Voma is an international membership association, supports and assists people and communities working at models of restorative justice. (<http://www.voma.org/>) Voma’s mission to promote and enhance restorative justice dialogue, principles, and practices. (http://www.voma.org/abt_voma.shtml) Voma is a network which is formed unofficially by applicants, researchers, theorists and has

been continuing the activities since the beginning of 1980's and called as Voma since 1997.

There are currently 350 Voma members (individuals) and 30 agency members, in 40 states and 7 countries. (<http://www.voma.org/abtvoma.shtml>)

“Voma is not currently active as an organization.”. (<http://www.voma.org/>) In addition to this, we think it will be useful to evaluate an important text in our study, “Recommended Ethical Guidelines” within virtues and virtuousness of Vomediator, which is prepared by Voma.

In Victim- Offender Mediation Association Recommended Ethical Guidelines, skills of non- verbal and verbal communication, tone of voice, openness, empathy, and authentic connectedness with each part, the process should be handle within victim sensitive and offender sensitive, guide the parties, has a duty, impartiality, neutrality, respect for confidentiality to ensure balanced negotiations and should not permit manipulative or intimidating negotiation techniques. Though these skills do not reer to a virtue directly, they are all related to the virtues and virtuousness of the vomediator within the process.

Other NGO that we want to examine within virtues and virtuousness of vomediator in vomediation process is The European Forum for Victim-Offender Mediation and Restorative Justice (EFRJ). In the following explanations, instead of The European Forum for Victim-Offender Mediation and Restorative Justice the abbreviation EFRJ may be used. It is founded in 2000 and The European Forum for Victim-Offender Mediation and Restorative Justice (now: European Forum for Restorative Justice) (<http://www.euforumrj.org/about-the-forum/origins/>) has six member countries, (<http://www.euforumrj.org/about-the-forum/who-we-are/>). The foundation aims at development and establishment of vom and other restorative justice practices through out Europe. To achieve this aim, the EFRJ assists in the development of principles, ethics, training and good practice. (<http://www.euforumrj.org/about-the-forum/aim-and-objectives/>) The necessity of the vomediator's virtues and virtuousness is thought to be related to ethical and good practices.

Another NGO that will be examined is Alternative Dispute Resolution Institute of Canada (ADRIC). In the following explanations, instead of, Alternative

Dispute Resolution Institute of Canada the abbreviation ADRIC will be used. The ADRIC is a Professional Alternative Dispute Resolution organization. (<http://adric.ca/about-adr/ADRIC>) ADRIC aims to support its members and clients in forming best applications' standarts, ledership and providing values. The Code o Ethics of ADRIC can be evaluated within this context.

In Code of Ethics, it is stated that vomediator should continue to be fair during the process of vom. The virtue of justice is stated openly as an ethic code. Also the vomediator remains faithful in his/her office and respect confidentiality, emphasizes on the virtue of loyalty directly. Besides that, unprejudiced, being distant to prejudice, communicating with the parties, should avoid impropriety or the appearence of impropriety are also regarding to the virtues and virtuousness of tehe vomediator in vom process.

Besides that, in the education by ADRIC oriented to the requirements and standarts of being qualified vomediator, it is stated that vomedaitor should get education of Ethics in Dispute Resolution. ([adricca/wp-content/uploads/2019/05/-ADRIC_QMed_Requirements.pdf](http://adric.ca/wp-content/uploads/2019/05/-ADRIC_QMed_Requirements.pdf)) We think that it is essential to relate virtuousness to educational subjects by ethics in virtues.

When Ethic Codes of NGO's are arranged, qualified vomediator's standarts and educational modules, we think that virtuousness and virtues, variety and richness which can contribute to the process, should especially considered.

2.3. THE VICTIM OFFENDER MEDIATOR'S VIRTUES IN VICTIM OFFENDER MEDIATION LEGISLATION IN TURKEY

Under this heading, the virtuousness and the virtues of the vomediator in the vom process will be analyzed in the framework of Turkey's legislation related to the vom. At this stage, our purpose is to determine whether the virtuousness and the virtues of the vomediator in the vom process have been tackled in Turkey legislation; if so, in what way they have been tackled.

Regulations which are directly related to virtues and virtuousness of vomediator are in Vom. Reg. LCP.

The second part of Vom Reg. LCP is related to the basic principles of Article 5 and the ethical principles of Article 6 under the main heading of vom principles, vomediator's virtues and virtuousness.

The basic principle stated in Vom Reg. LCP, article 5 titled the basic principles, subheading 2, "Vom shall be carried out in accordance with the fundamental rights and freedoms of the suspected or accused and the victim or those affected by crime, taking into consideration the protection of their interests." relates to the vomediator's virtues and virtuousness, especially the virtues of justice, purity, love, goodwill.

The basic principle stated in Vom Reg.LCP, a.5, subheading 3, "The suspected, accused, victim or those affected by crime and their legal representatives participating in the vom shall have the basic guarantees granted by the law during the negotiations." relates to the vomediator's virtues and virtuousness, especially the virtues of justice, purity, love, goodwill.

The basic principle stated in Vom Reg.LCP, a. 5, subheading 5, "Before commencement of the vom process, the suspected, accused, victim or those affected by crime shall be informed about their rights, the nature of the vom and the legal consequences of the decisions to be taken." relates to the vomediator's virtues and virtuousness, especially the virtues of justice, love, goodwill, tolerance, compassion.

The basic principle stated in Vom.Reg. LCP, a.5,subheading 6, "Significant differences such as age, maturity, education, social and economic status of the suspected or accused and the victim or those affected by crime are taken into account in the vom process." relates to the vomediator's virtues and virtuousness, especially the virtues of justice, love, goodwill, tolerance, compassion.

The basic principle stated in Vom.Reg.LCP, a.5, subheading 7, "The vomediator shall protect the confidentiality of the information and documents given to him/her due to his/her duty. He/she shall not disclose confidential information and documents provided by one of the parties to the other party without the permission of the issuer or unless required by law. The duty of the vomediator to maintain the confidentiality shall continue after the expiry of the duty." relates to the vomediator's virtues and virtuousness, especially the virtues of justice, moderation, love, purity.

The basic principle stated in Vom Reg. LCP, a.5, subheading 8, "Before commencement of the negotiations, the vomediator shall explain the basic principles of vom, his/her impartiality, the vom process and its results, the vomediator's and the parties' functions in vom, the obligation of confidentiality to the parties and enable them to understand the process." relates to the vomediator's virtues and virtuousness, especially the virtues of justice, love, goodwill, tolerance, compassion.

The basic principle stated in Vom Reg. LCP, a.5, subheading 9, "The vomediator shall take appropriate measures to ensure that the parties agree with their own free will, knowing the terms and consequences." relates to the vomediator's virtues and virtuousness, especially the virtues of justice, love, purity, tolerance, compassion.

Article 6 of the Vom Reg.LCP sets out the ethical principles that the vomediator must comply with in the performance of his/her duties. The relationship between the ethical principles stated in a. 6 of Vom Reg. LCP and the virtues and virtuousness of the vomediator can be explained as follows:

The ethical principle that the vomediator is obliged to perform his/her duties stated in a. 6-1/a of Vom Reg. LCP independently and impartially within the framework of honesty and virtue ethics relates to the virtues and virtuousness of the vomediator, especially the virtue of honesty stated above, impartiality, justice, love, goodwill, tolerance, courtesy, prudence. Independence relates to the virtues and virtuousness of vomediator, especially justice, courage and goodwill. Observing the common interests of the parties relates to the virtues and virtuousness of vomediator, especially justice, goodwill, prudence. Taking care to ensure that the parties have sufficient and equal opportunities in negotiations relates to the virtues and virtuousness of vomediator, especially the virtues of justice, goodwill, love within the framework of virtue ethics.

In a. 6-1/b of Vom Reg. LCP, awareness of the service to justice relates to the virtues and virtuousness of vomediator, especially the virtues of justice, goodwill. The effective and efficient performance of the duty relates to all virtues. The timely performance of the duty relates to the virtues and virtuousness of vomediator, especially goodwill, prudence, moderation.

Being polite to the parties in the performance of the duty stated in the article 6-1/c of Vom Reg. LCP is to reflect the virtue of courtesy directly to the ethical principles. Respecting the parties while performing their duties is related to the virtues and virtuousness of the vomediator, especially the virtues of justice, love, goodwill, tolerance and kindness.

The ethical principle stated in a. 6-1/ç of Vom Reg. LCP, "the presumption of innocence cannot be prejudiced about the guilt of the suspected or accused, and cannot take a stand against the suspected or accused.", not being prejudiced or not taking a stand against the suspected or accused relates to virtues and virtuousness of the vomediator, especially justice, purity, love/tolerance, goodwill.

The ethical principle stated in a. 6-1/d of Vom Reg. LCP, "While performing his/her duties, he/she cannot distinguish between the parties for reasons such as language, race, color, gender, political thought, philosophical belief, religion, sect and similar reasons." relates to the virtues and virtuousness of the vomediator, especially justice, goodwill, love, prudence. The ethical principle stated in the continuation of a. 6-1/d of Vom Reg. LCP, "He/she cannot act in a manner that disrupts reputation and trust" relates to the virtues and virtuousness of the vomediator, especially justice, purity, goodwill, moderation.

The ethical principle stated in a. 6-1/e of Vom Reg. LCP, "He/she can not carry out his/her duty or continue to serve without explaining the situations that may affect or give the impression of conflict of interest between the parties, such as the presence of any personal or business relationship with one of the parties, the existence of direct and indirect, financial or other benefits for the outcome of the vom, or serving with an authority other than vom for one of the parties." relates to the virtues and virtuousness of the victim offender mediator, especially justice, goodwill, purity.

The ethical principle stated in a. 6-1/f of Vom Reg. LCP, "He/she can not then act as an attorney or advocate for the event in which he/she has served." relates to the virtues and virtuousness of the vomediator, especially justice, goodwill, purity.

The ethical principle stated in a. 6-1/g of Vom Reg LCP, "He/she cannot directly or indirectly provide any benefit to himself/herself or anyone else, which

may lead to doubts about his/her impartiality." relates to the virtues and virtuousness of the vomediator, especially justice, purity, goodwill, prudence.

The ethical principle stated in Article 6-1/ğ of Vom Reg LCP, "He/she shall avoid any behavior that harms or suspends the dignity of the duty and the trust of individuals in justice." relates to the virtues and virtuousness of the vomediator, especially justice, purity, love, goodwill, moderation.

In order to reveal the contribution of the virtues and virtuousness of the victim offender mediator to the victim offender mediation process, which is the main purpose of our study, we have first examined the concepts of virtue and virtuousness, and then we have examined their position in the important national and international documents on dispute settlement and the legislation of the Republic of Turkey in order to provide a holistic perspective on the subject.

We will now focus on the contribution of these virtues carried by the vomediator to the process during the vom process, which is the main subject of our thesis.

2.4. VIRTUES OF VICTIM OFFENDER MEDIATOR IN THE PROCESS OF VICTIM OFFENDER MEDIATION

In this section, the virtues that the vomediator should have in the vom process will be examined one by one. In our study of the virtues that the vomediator should have in the vom process, in the examination we have conducted in the literature about which virtues will be taken as basis; In Plato's book Republic: Wisdom, courage, moderation, righteousness (justice) (Plato, 2008:125,134,135) Aristotle, who takes the four basic virtues as a basis, also elaborated the virtues in Eudemeous in more detail than Plato and identified the virtues in Ethics as a table. (2015: 27, 28) The virtues stated by Aristotle are as follows: Calmness, bravery, sense of shame, moderation, resentment, justice, generosity, seriousness, friendship, sincerity, solid character, supreme volunteerism, splendor, sedateness. (Aristotle, 2015: 27, 28)

In addition, Andre Comte-Sponville, professor, educator and philosopher of Sorbonne University, has identified eighteen virtues in his study in the book "A Small Treatise on the Great Virtues". Sponville's "A Small Treatise on the Great

Virtues'' was used to determine the virtues in order to evaluate the contribution of the author to the vom process management as many virtues as possible, based on the concentration of the subject and the diversity of the virtues determined. The virtues mentioned in the book are courtesy, loyalty, prudence, moderation, courage, justice, generosity, compassion, forgiveness, gratitude, humility, simplicity, tolerance, purity, gentleness, goodwill, humor, love. (Sponville, 2015: 7, 8) We will try to determine how and how each virtue can contribute to process management of the vomediator individually.

2.4.1. The Virtue of Courtesy

Regarding courtesy, Dalai Lama speaks of the need for deeper awareness of how our emotional world affects people around us, and argues that this awareness will lead us to a more compassionate perspective. (Goleman, 2015: 54) If we can be polite to people and make sure that we're not hurting or insulting them with our comments, we can tell almost everything and still get along with them. (Burns, 2019:182)

There is a clear relationship between the provision in article 6/c of Vom Reg. LCP stating the ethical principles, "The vomediator treats the parties kindly in the performance of the duty" and the virtue of courtesy and the performance of the vomediator's duty. The virtue of courtesy, which is associated with the obligation to be polite, is the only virtue that the vomediator should have in the vom process. According to this ethical obligation, the vomediator must be polite to the parties throughout the process (Vom Reg. LCP a. 6/c).

Kindness is a kind of supreme volunteering (Spinoza, 1677/ 2018: 282). A vomediator who lacks the virtue of courtesy may exhibit offensive behavior in the process. The virtue of courtesy is one of the most important virtues that contribute to the value and constructiveness of the vomediation process that is sensitive to the parties.

The necessity of the vomediator to treat the parties and their representatives in a kindness manner throughout the process can be considered in line with the principles of restorative justice, respect, relationships, healing. (Barsky, 2017: 169)

Courtesy reflects the vomediator's attitude in the first contact with the parties. From the appointment of the vomediator, it is a kind behavior to send an SMS before calling the parties on the phone, and there are important benefits in starting the process in this way. The circumstances of the party may not allow the vomediator to speak at the time of the call and the party may not make it clear to the vomediator with whom he/she first contacted.

In addition, it is an application of the virtue of courtesy to call for compliance with the parties in terms of space and time in order to propose a compromise and to make a telephone call when determining the day of negotiation. On the other hand, taking into consideration the special situations of the parties such as old age and illness will be the application of the virtue of courtesy. (Vom Reg. LCP a.5/6)

The welcome and farewell of the parties with a smiling face and on feet is an important condition for creating a positive climate. Greeting the parties in this way and making eye contact and greeting them in accordance with cultural codes are not only the first steps to ensure a positive climate, but also provide confidence.

On the other hand, the vomediator's smiling face in the negotiations and offering refreshments such as tea and cologne will be the application of the virtue of courtesy and will enable the parties to welcome this sensitive process more positively.

Finally, at the signing stage of the vomediation report, the process of signing with the will of the parties should be gently programmed. Appointment of the parties on an appropriate day and time should be continued at this stage regardless of whether the vom is successful or not. If possible, the vom report should be prepared before the time of the appointment and thus preventing the loss of time will be a good example of the continuity of courtesy at the end of the vom process.

It is important that the vomediator does not lose his/her kind attitude towards the parties, especially in times of difficulty. Being polite in difficult situations is also related to the internalization of the virtue of courtesy. The difficulty may be of two types, caused by the vomediator and the parties. The vomediator's own difficulty may arise from the non-compliance within the vomediator itself. For example, the sleepless vomediator can approach a problem that he/she would normally meet appropriately, with discourtesy.

Difficulty caused by the parties can occur in many different ways. A party that is late for the appointment may make the vomediator abandon his/her kind attitude. The important thing is that the virtue of courtesy is exhibited in particularly challenging situations. It is necessary for the vomediator to face all these negativities graciously, to complete the duty he/she takes on and to complete it peacefully without entering into conflict with the parties. Undoubtedly, the finalization of the vomediation process in peace depends on the vomediator to meet the challenging processes graciously and to keep the process standing.

2.4.2. The Virtue of Loyalty

"Loyalty is the virtue of memory and memory itself as virtue." (Sponville, 2015: 36). Life is about change and renewal, however, the spirit is the thing that makes the past, makes it present, what the past hands over to us is what it makes us live; so spirit is loyal, human being is human only through loyalty. (Sponville, 2015: 33, 34, 36). Man's disloyalty to the values of spirit leads to a decrease in existence due to the dilemmas and conflicts in his existence.

The decrease in existence will affect the efficiency and success negatively in the vom process as in all areas of existence. For this reason, "it is important not to betray humanity's self-formation and what makes us us." (Sponville, 2015: 43)

It is possible to consider that the virtue of loyalty should be handled in a holistic way with respect to values, people and institutions."Loyalty is the virtue which shows why and for what values, virtues do exist." (Sponville, 2015: 36). Fairness is the virtue of the loyalty of the righteous people, and peace is the virtue of the loyalty of the peaceful people (Sponville, 2015: 36). In this way, it is possible to relate the virtue of loyalty to all virtues and values, and this will be our starting point when associating with the vomediation process. Loyalty is avoiding disloyalty and betrayal when interests impose variability. (Sponville, 2015: 39)

During the vomediation process, loyalty should be considered within the framework of loyalty to values and virtues. Because the object and subject of loyalty is what creates its value. (Sponville, 2015: 37) The virtue of loyalty should be

implemented at every stage and step where adherence to these values and virtues must be demonstrated.

Loyalty is directed towards the valuable in proportion to its value. (Sponville, 2015: 39). The virtues should be one of the values that the vomediator takes as a basis during the vomediation process. The values of the virtuous individual are those that are associated with virtues. In the vomediation process, the vomediator must first show loyalty to justice. According to Vom Reg. LCP, loyalty to justice is the vomediator's ethical obligation (Vom Reg. LCP a.6/1-c) Vomediation is sensitive and important for the individual and society and the state as it is a practice of justice within the framework of restorative justice. Because injustices in justice practices deeply hurt the individual and the society. Unethical practices in vomediation create very difficult problems to repair, not only to the vomediator but also to the State. Loyalty to justice is therefore necessary. Prevention of damaging justice for the sake of our interests can be achieved only through loyalty to justice. When a personal interest and justice dilemma arises against the individual; not to betray justice is related to virtues and virtuousness, especially the virtues of justice and loyalty.

The vomediator must also show loyalty to all other virtues required by his/her role. He/she must show loyalty to the virtue of kindness when he/she should be polite. He/she must show loyalty to the virtue of courage when he/she should be brave. He/she must show loyalty to the virtue of moderation at the moment when he/she should be moderate.

We can also talk about the vomediator's loyalty to the law (Sponville, 2015: 43). This is the reflection of loyalty to justice in the field of law. The vomediator should be loyal to the vomediation institution and its basic and ethical principles; and should perform his/her role within the framework of these principles. Because the vomediator, who carries the virtue of loyalty, may want to keep the basic and ethical principles alive because of this virtue (Sponville, 2015: 41).

Apart from this, the loyalty of the vomediator to the parties to the vomediation process and to the individuals in the vomediation organization cannot be in question in general. Because the vomediator is independent and impartial in performing his/her duties. We can only speak of loyalty to the humanity of human beings by seeing the value of man as a human being and giving him value and labor

(Sponville, 2015:43). However, this is not an individual-specific loyalty; it is loyalty to human and humanity, regardless of the subject.

The vomediator's loyalty "is primarily the truth." (Sponville, 2015: 41) Truth is the highest principle that includes many others; not only verbally, but also in opinion; it is not only the relative truth of our views, but also the absolute truth, that is, God Himself. (Gandhi, 1925/ 1963: 5). Because a person who is not loyal to truth, no matter what he/she shows loyalty to by betraying the truth, this loyalty is not fair; it is not legitimate before justice. "First, loyalty to truth; otherwise, all loyalties are hypocritical." (Sponville, 2015: 267). Of course, the vomediator's role is not to find the truth and reach a judgment; he/she cannot judge the parties to reach the truth. However, encouraging speaking of truth and trying to reach truth are different phenomena in the context of their intentions and aims. The vomediator can honestly engage with parties that are obliged to engage in good faith and encourage them to engage in honest dialogue and to speak the truth. Such an approach is associated with the principles of truth and respect of restorative justice.

2.4.3. The Virtue of Prudence

It is also possible to define prudence virtue as mindfulness. "Prudence is to be able to think about what is good and useful for him and to live completely well." (Aristotle, 2005: 118) Prudence determines what should be chosen and what should be avoided (Sponville, 2015: 55).

An unvirtuous person can often make wrong decisions under the influence of his/her emotions and thoughts. "However, a virtuous person behaves properly." (Aristotle, 2015: 31). Prudence is the condition of virtues, in the absence of prudence, other virtues become paving stones of hell with their good intentions; because without virtue, virtues cannot know what to do, nor can they know how to achieve the goal (good). (Sponville, 2015: 49-51). Virtues cannot be independent of prudence, virtue is a habit appropriate for prudence (Aristotle, 2005: 129). Without prudence, every virtue becomes weak or harmful. (Sponville, 2015: 56)

"Prudence is a righteous, implementer and sane attitude about good and bad things for people" (Aristotle, 2005: 119). Prudence is instrumental, committed to the

services of purposes not belonging to itself, but cares for itself when choosing its instruments; this is what makes prudence irreplaceable: no action, no virtue at all, cannot give up prudence (Sponville quoted from Aristotle, 2015: 52). Prudence is a habit for a person to make good decisions about what is good or bad and to act accordingly (Sponville quoted from Aristotle, 51). Thanks to the virtue of prudence, we reach the truth and never fall into the wrong (Aristotle, 2005: 120). Epicurus states that all other virtues originate from prudence and that the prudence chooses which desires are to be met with which instruments by means of comparing and testing advantages and disadvantages (Sponville, 2015: 53). It is impossible to be good in the sense of being independent of prudence and to be prudent independent of character virtue (Aristotle, 2005: 129). Prudence is what separates heroism from desperateness by impulse (Sponville, 2015: 54). With this aspect, it mediates the act of virtue as virtue. And it ensures that virtue remains a virtue.

Prudence can also be called common sense; but it is at the service of a good will; or it can be called intelligence; but it must be virtuous; prudence cannot function as virtue without other virtues, and it becomes only talent (Sponville, 2015: 51, 52, 54). The virtue of prudence can realize its potential as virtue with the presence and participation of other virtues.

Prudence is related to the application (Aristotle, 2005: 121). The vomediator, as the director of the vomediation process, has to take decisions at any moment in this dynamic process. It is very important and valuable that the vomediator can be prudent in these decision moments. The decisions taken by the vomediator in process management should be in line with the principles of restorative justice, which considers the interests of the parties. Prudence has the nature of sanction; its purpose is what to do or not to do. (Aristotle, 2005: 125) The vomediator can make a healthy decision about what to do with prudence.

Prudence is what Freud calls the principle of reality, which is what is called prudence when the principle of reality and risks and dangers are evaluated and decided to be preferred (Sponville, 2015: 56, 57). Prudence is the art of considering and seeing in all its aspects and despite all obstacles and deviousness (Sponville, 2015:54). Prudence is not only thinking but good thinking; in good thinking, the person who thinks searches and weighs (Aristotle, 2005:123).

The vomediator should act with an approach and style required by the virtue of prudence when deciding what to do or not in the vomediation process. The vomediator does not only think about the concrete fact in his/her hand, but also thinks well together with the virtue of prudence. Thinking well is to see the detail in the whole and not to miss the whole while seeing the detail (Bayar quoted from Atatürk, 2009: 41). He/she should know not only the general, but the details (Aristotle, 2005: 121). Prudence is to take good care of the individual things about himself/ herself; however, prudence includes relations with other people in relation to human things; it is related to things to be thought over: the duty of the prudent person is to think over in detail (Aristotle, 2005: 121). In this sense, when the vomediator receives the file, he/she should conduct a conflict analysis, evaluating the details and the whole together. In this analysis, human should always be in the focus and the relations of the parties should be evaluated within this holism. It is not right to ignore the details, nor to sink into the details and overlook the whole. Prudence is also about maintaining this holistic view when approaching events and phenomena. This approach should be reflected in every stage of the vomediation process.

There are two aspects of prudence; prudence as a precaution and prudence as a risk and decision virtue (Sponville, 2015: 55). Without courage, prudence becomes cowardice; courage also becomes madness or insanity without prudence (Sponville, 2015: 55).

It can be thought that the vomediator can apply the prudence virtue at every stage of the process and with different aspects. "Prudence is primarily to protect , not to damage " (Sponville, 2015; 56).The vomediator's primary duty during the vomediation process is to protect the interests of the parties (Vom Reg. LCP a.5/1-2). This requires primarily the protection of the psychology of the parties and their ties to life. Prudence is about outcome (Aristotle, 2005: 123). The vomediator should always review possible consequences and be cautious when making decisions about the process. Establishing the first communication with the parties in the right time and manner, deciding whether the parties will be brought together, deciding where they will be brought together on the basis of security if decided, ensuring that the negotiations are conducted in good faith and respectful manner are related to the vomediator's implementation of prudence as a precautionary measure.

It can be considered that prudent as risk and decision virtue is one of the virtues that vomediator should have in process management. The vomediator should be prudent in making decisions, taking into account the interests of the parties and the principles of restorative justice; in this context, he/she must act by considering and predicting the results. When and in which way the first contact will be established with the parties, where the first separate meeting will be held, whether the parties will be brought together, the preparation of the negotiations in advance, the start and conduct of the negotiations with a positive climate are related to the virtue and virtuousness of the vomediator in the vomediation process.

Prudent man is careful; he pays attention not only to what is, but also to what may be; it is the virtue of time, uncertain future, appropriate moment and patience; prudence takes into account the future; it is the present-day virtue, but it is farsighted or prioritizing virtue (Sponville,2015: 54).

The vomediator should use the time in a prudent and realistic way. Being hasty in the vomediation process will not lead to restorative justice, but being too slow can harm the parties and their interests. On the other hand, it is a justification for the delay in justice. For this reason, the vomediator should use the 30-day period granted prudently and, if necessary, use the additional period to complete the vomediation process within the time period allowed. The vomediator should be careful and alert about misleading and misconduct that may prevent him/her from using the time prudently caused by the parties.

If the vomediator holds a joint meeting, he/she should be prudent to direct the meeting. In this sense, he/she should make an opening speech. This opening speech should be done with a content and form that can prevent problems in advance. The vomediator, who senses that the interests of one of the parties has developed in a destructive direction in the joint meeting, should take preventive and balancing measures without any problems. In case of problems, he/she should stop the meeting with prudence and even disrupt it if necessary without allowing it to get bigger.

In the process of vomediation through indirect negotiations, the vomediator should only share what the parties say about each other with the other party, with the consent of the party in question, in a way that will only contribute to achieving restorative justice.(Vom Reg. LCP a.5/7) Negative, destructive and offensive expressions of the parties should not be transferred exactly to the other party. In

essence, if there are any promises that should be transferred to the other party in order to achieve restorative justice, they should be re-framed before explaining.

The necessity of the vomediator to be prudent when preparing the reconciliation report can be evaluated from different angles. In the absence of conciliation, it may be considered appropriate to exclude the details of the negotiations in a manner that violates the principle of confidentiality by declaring that no conciliation has taken place in the reconciliation report. In addition, even if conciliation takes place, the requirement that the content of the negotiation should not be reflected in the reconciliation report can be considered within the framework of confidentiality principle. (Vom Reg. LCP a. 5/ 7)

Finally, it is possible to assess the necessity of the vomediator to act prudently during and after the relationship with the parties. For example, if a consensus is reached in the file to which a prominent person is a party, the failure to pass on information to third parties under the principle of confidentiality (Vom Reg. LCP a. 5/ 7) may be associated with the prudence virtue.

2.4.4. The Virtue of Moderation

There is a moderation in every virtue. (Seneca, 65 / 2018: 222). Moderation is the proportionality that allows us to be a part of our lives by not falling under the sovereignty of our pleasures; therefore, moderation is not a refusal of pleasure in relation to pleasure; it is proportionality as an element of power (Sponville, 2015: 61, 62). Moderation is directed towards the most difficult desires of the individual, which are the most necessary for the life of the individual (food, drink, making love) and also the most powerful, which are difficult to keep under control for these reasons (Sponville, 2015: 66). Moderation is a virtue that transcends all kinds of intoxication with Alain's words. (Quoted by Sponville, 2015, 67). To be moderate is the greatest virtue according to Heraclitus (Heraclitus, 2014: 265).

Moderation is the mid point about pleasures. (Aristotle, 2005:63) Moderation is in the midpoint of indulgence and indifference about what is pleasant (Aristotle, 2015: 58). The immoderate person is not free; he/she is the slave of his/her body, desires, habits; moderation is the means of being independent (Sponville, 2015: 63).

It is not the body that is insatiable; it is the infinity of desires that condemn us to dissatisfaction and disaster; because the immoderate people want more, always more, they do not know what to do with the excess (Sponville, 2015: 64).

Moderation is a requirement of harmony with life and people. Moderation is emphasized by many philosophers. Cleobulus of Rhodes says the moderation is the best thing ..; Solon of Athena says, don't be extreme in anything, stay moderate; escape from pleasure that causes grief ...; Chilon of Sparta says, be restrained in passion, be moderate...; Pittacus of Lesbos says, watch for the right time, keep the moderation in mind... ; Bias of Priene says, Listen a lot, talk on the spot, don't miss the moderation ...; Periander of Corinthos says, be restrained in fortune, thoughtful in ill fortune. Assertiveness is deceptive...; Thales of Miletus says, be restrained, don't become rich in bad ways. Don't adopt the bad thing from your father... There's nothing worse than not being able to restrain yourself (Hançerlioglu, 2017: 61).

Moderation is the voluntary regulation of the impulse of life, a healthy self-expression of the power of existence, and in particular the strength of our soul over the irrational impulses of our emotions or desires (Sponville quoted from Spinoza: 67). "Moderation is to do with less" (Sponville, 2015: 63). Moderation is the prudence applied to pleasures (Sponville, 2015, 63). Epicurus was teaching how to make use of pleasures naturally to soothe and satisfy the body in the most simple form (Sponville, 2015:64). It's a pleasure to be the master of your own pleasure (Sponville, 2015: 65).

One of the virtues of the vomediator in the vom process is moderation. "The vomediator and mediator are primarily skilled and moderate persons" (Özbek, M. 2013: 762). The vomediator, as the director of the vom process, needs to regulate life impulses. The vomediator, as the manager of the vom process, may need to regulate life impulses. If the life impulses are not regulated, the situation of irregularity and chaos can be considered in the vomediator's life. It can be considered that this situation may have a negative impact on all living spaces as well as a negative impact on settlement process management. Excessive habits of addiction (drink, gambling , sex) can be thought to adversely affect the vomediator's presence and concentration in vom process, mentally and spiritually.

The deprivation of the virtue of moderation manifests itself as inability to concentrate, not to focus at all stages of the vomediation process. In this case, the vomediator cannot be sufficiently affectionate, creative, natural with the effect of addiction. Essentially, immoderation creates a general state of chaos, which suspends all existing virtues and prevents them from integrating with the vomediation file and its content and has negative consequences.

On the other hand, immoderation adversely affects the vomediator's power to other qualities and skills originating from virtues. The virtues, qualities and skills of an angry person who is sufficiently angry to lose himself/herself are at least suspended in the anger process. As a result, the reflection of the vomediator not being moderate is the loss of power. Its reflection in terms of the process is that the vomediator threatens the process being peaceful and restorative due to the chaos within itself. The result of moderation is that it provides the vomediator with the independence and power that allows him/her to be ready in advance and to be there at the moment. Preparing in advance and then being there (mentally) when the process starts, is the basis for dominating the vomediation process. These gains are also a prerequisite for a peaceful and restorative vomediation process management.

Moderation is also related to the structure of speech. "Extremely harsh, rude narration lowers the spiritual value of speech, and the form of speech should remain moderate." (Seneca, 65 /2018: 142). Or vice versa. Extremely soft style also damages the vomediator's director role. In communicating with the parties, harsh, coarse, coercive approaches are not appropriate for the vomediator's role, nor are they appropriate for the vomediator's role in a weak, powerless, timid manner. By avoiding both ends, it can be considered vomediator to adopt a balanced, moderate speaking style.

2.4.5. The Virtue of Courage

Bravery is the steadiness of the belief that we feed with the things to be feared and not feared in accordance with the law (Plato, 2008: 128). "Bravery is the midst of courage and cowardice." (Aristotle, 2015: 49). It is possible to conclude from these definitions of Plato and Aristotle that courage actually makes a distinction

between the issued to be feared and not feared. In this context, Aristotle and Spinoza put the mind right next to courage. "When I say courage, I understand the desire that causes individuals to strive to maintain their existence only in accordance with the command of the mind." (Spinoza, 1677/ 2018: 282) Regarding the fear of the brave; bravery must follow the mind, mind requires the choice of beauty; the coward is afraid of things that need not be feared while the daring person dares to the things that are not necessary; the brave behaves properly in both respects, because he/she shows bravery or cowardice in what the mind commands (Aristotle, 2015: 51).

Brave people will not be shaken by their unshakable beliefs about why they will be afraid or not in situations such as pain, fear and ambition; bravery does not fly away (Plato, 2008: 128). Because brave people are not necessarily or easily affected by what the most people are affected by (Aristotle, 2015: 50). The brave person is often fearless; the coward is full of fear, he/she is afraid of many things, important or trivial things both quickly and very much; otherwise he/she is either not afraid or he underestimates, he/she has little fear, and he/she is afraid of important things (Aristotle, 2015: 49). The bravery makes the person fearless, either by not being afraid of anything, or by being afraid of a few things, being resilient and not easily afraid (Aristotle, 2015: 50).

As a virtue, bravery will allow you to stand up against something scary for something (Aristotle, 2015: 55). The brave has a natural tendency for the sake of beauty and the service of the mind to be put in danger, he/she is fearless about this, and bravery is above this situation. (Aristotle, 2016: 85).

The vomediator is the manager of the vomediation process (Vom Reg. LCP 4/1) and it can be assessed that the vomediator needs to maintain this management to achieve the expected restorative benefit from the process. However, it is difficult for the vomediator who lacks the virtue of courage to take on the process management; it may even be difficult for the vomediator to preserve power in the face of powerful parties who recognize and exploit his/her discouragement, weakness.

These flaws of a cowardly and timid vomediator can be reflected in their relations with the parties and this situation can be abused by the parties. It may be that such a mediator can actually lose the vomediation process management (Vom Reg. LCP a.4/1) by acting indecisively and hesitantly in the process of uncertainty.

In the final analysis, it can be thought that this situation resulting from this discouragement may make restorative justice impossible and cause the victim to become worse from the beginning. For example, as a result of preliminary interviews, because the suspect/accused does not assume responsibility for the crime, it can cause the victim to become even more aggrieved by evaluating the fact that the parties should not be brought together, but bringing them together against the persistent demand of the suspect/accused. Such a situation, which may arise from the lack of courage, may constitute a violation of the principles of restorative justice as well as a violation of the fundamental principle of the protection of the interests of the parties in the Vom Reg. LCP. (Vom Reg. LCP a. 5/2)

Discouragement may be a flaw that forms the basis for an unfair agreement in favor of a party. Because the vomediator may fail to fulfill his/her obligations such as observing the interests of the parties and acting impartially due to this flaw. It is inevitable that not only one of the parties, but also the vomediation institution, society's sense of justice and therefore the State will be damaged.

Bravery is the condition of all virtues and is one of the virtues in the face of danger; it is literally the basic virtue because it supports and carries others, like an axis and tenon (Sponville, 2015: 76). The connection between the virtue of courage and the virtue of justice is important for the vomediator. The vomediator may need the virtue of courage to act fairly within the framework of the fundamental principle of respecting the interests of the parties. In such cases, the virtue of courage becomes the carrier of the virtue of justice.

Feelings such as sobriety, composure and cool headedness in dangerous moments are a kind of courage (Spinoza, 1677/2018:282). It is a reflection of the virtue of courage that the vomediator maintains his/her calm in compelling moments in vomediation process management and acts in accordance with the requirements of his/her role. It is necessary to maintain cool headedness against the persistent demands of one of the parties that contradict the legislation. On the other hand, the fact that a vomediator party is sober in the face of the violation of the interests of the parties and in situations where loss of rights may occur is a reflection of the virtue of courage.

2.4.6. The Virtue of Justice

"He/she who receives less than he/she should have received has suffered injustice; the right is between these two; justice is a virtue in the sense of the merit to respect the right." (Aristotle, 2016: 15). Justice is said to be full virtue, since the law is aimed at the righteous, and at the same time commands us to act in a courageous and moderate manner (Aristotle, 2016: 99) All virtues are collected in justice (Ülken, 2017: 289).

It should not be forgotten that Greek thought did not initially make a distinction between the concepts of justice, morality and law, and sometimes viewed justice as a "love of goodness" (Güriz, 2001:7).

In general, justice meant that a person's conduct was in accordance with moral law.

Accordingly, a fair/righteous person is a person who is religious, courageous, moderate, honorable, humble etc. (Akıllıoğlu, 2001:51).

"A person who is fair in accordance with the law becomes a truly good person; then the fair and the justice are a kind of full virtue." (Aristotle, 2016: 99). Justice is not a part of virtue, but a whole; the injustice that is the opposite is not a part of evil, but the whole of evil (Aristotle, 2005: 93).

It is clear that justice is the center of injustice and being subject to injustice; because one is more and the other is less; justice is the middle, but not like the other virtues; it is the property of the middle, and injustice is the property of extremes." (Aristotle, 2005: 102). Injustice is an excess and deficiency; because it prefers more and less (Aristotle, 2005: 102). From this point of view, individual virtues are directly related to the virtue of justice. It will be possible for virtue to be virtue by finding justice in itself. On the other hand, justice is of course an independent virtue within its originality. In this case, it will be a medium in terms of providing the right.

The individual is fair because he/she loves good. In this sense, it is seen that there is a connection between the virtues of love and justice and so it can easily be said that all virtues have a connection with love and justice. When goodness is considered as virtue, justice is "the love of virtuousness". The word justice is an Arabic word from Islamic law. "It means direction, righteousness, exaggeration and

understatement, moderation, honesty, clean heartedness, sincerity." (Mumcu, 2001:147). Love combined with justice is a holistic love that encompasses everyone and everything. The selfish cannot be expected to be fair. To be fair is to fall in love with the unity. (Ülken, 2017: 100). However, the person who has the love of unity in himself/herself will be fair and will not separate any person who loves humanity from another person. (Ülken, 2017: 101)

The renowned Roman jurist Ulpian described justice as "a constant and endless effort to give everyone its share". (Güriz, 2001: 9). This is only an effort and continuity in the direction of delivering the right that can be demonstrated by someone who has all the virtues and who is fully good. Such an effort requires the existence of love. At the same time, the continuity in delivering the right is a reflection of the will. "The first paragraphs of the compilation of the rules of law issued by the Emperor Justinian in Istanbul in 533 AD under the name of "Institutiones" relates to the concept of justice. Accordingly, "Justice is a decisive and continuous will to give everyone their right." (Akıllıoğlu, 2001: 49).

From the definitions of justice, considering that justice is the full virtue of participation of all virtues, and also that love and will have important functions in granting the right and the realization of justice together with the phenomenon of imperfection, especially selfishness, it is possible to understand the causes of justice and injustice in the individual and in the world.

Every evil accomplishes something unfair. (Aristotle, 2015: 34). Evil seems to do unfair things. (Aristotle, 2015: 35). Therefore, the source of injustice is evil. In general, virtuousness and virtue-related efforts are related to the transcendence of the opposite concept of evil and evilness. This is essentially the struggle between the virtues and the evils that exist between justice and injustice both within the individual and the outside world. As a result, justice is the state where virtues prevail over the flaws that manifest themselves with evil. However, the person who has achieved such a victory in himself/herself can consciously act fairly in the situations he/she encounters in the outside world.

Evaluate the necessity of vomediator to have the virtue of justice in accordance with the principles of restoration, respect, concensus, healing principles of restorative justice. Vomediator performs a public duty on justice and it is necessary

to be fair. (Vom Reg. LCP 6/b) Injustice causes deep wounds in society. While injustice fosters hatred and fighting in society, justice always creates unity (Plato, 2004: 8). Law is one of the most painful areas of injustice. For this reason, the conditions of the vomediator to be fair must be met and it is compulsory to take advantage of the virtues while doing this.

In Canada, where dispute resolution has emerged, when the parties were asked whether the agreement reached at the end of the vomediation process in the United States was fair, they stated that 9/10 of the parties thought that the agreement reached as a result of the vomediation was fair; the rate of the victims/complainants who find the agreement fair is 92% and the rate perpetrators is 93% (Umbreit, 2001: 225-227). In Turkey, the agreement reached as a result of vomediation by the victim and the suspect/accused and also the vomediation process considered to be fair and the satisfaction system in this direction is of great importance in terms of being healthy and sustainable. This requires the vomediator to be fair in the first place.

The vomediator tries to create a unity between the parties within the framework of restorative justice. The indispensable condition of unity is, therefore, that the parties to the dispute appear to be fair and are truly fair in the vomediation process. The vomediator should be fair at every stage of the process. However, fairness requires a multi-faceted development in all virtues, since justice is a full virtue formed by the combination of other virtues. This means that the vomediator must first be aware of his/her own flaws, try to correct them and make sure that these flaws do not cause injustice in a way that damages the parties. However, if the vomediator's flaws are of a nature or size that will affect his goodwill, then the vomediator cannot be expected to make an effort in the direction we have indicated.

The vomediator cannot be prejudiced about the guilt of the suspect or accused, nor can he take a stand against the suspect or accused (Vom Reg. LCP a.6/ç). The vomediator cannot discriminate between the parties for reasons such as language, race, color, gender, political thought, philosophical belief, religion, sect and similar reasons, and cannot engage in disruptive behaviors (Vom Reg. LCP a.6/d). This approach is related to the vomediator's preparation for the role in general, and to the idea of unity in which any separation is perceived only as difference and one can be seen as a human being. It is difficult to expect the vomediator who does

not perform such a preparation and does not make any progress in this regard to be fair in the concrete case.

It can be assessed that deprivation of justice can occur in a variety of ways in the reconciliation process, which are attempted to embody the following: Conducting the vomediation proposal process without making sufficient efforts in favor of the suspect/accused who is accepted as a criminal in advance and condemned, not being willing in the participation of the suspect/accused in the process, judgmental and condemning attitudes towards the suspect/accused; encouraging the victim with unreasonable declarations to conclude a successful resolution, providing incomplete and/or inaccurate information to the parties about the legal consequences of the resolution and/or file, managing the vomediation process without confronting the parties solely with decreasing their own comfort can be shown as examples.

In order to avoid all these negative attitudes and to be fair, the need for vomediators to adopt a holistic approach to address the lack of maturity can be assessed. By focusing on such a holistic development and the virtue of justice, it may be possible to achieve better and more ethical vomediation practices.



2.4.7. The Virtue of Generosity

Generosity is the virtue of sharing the blessings by showing the success of escaping the egocentrism and greediness of the primitive self (Küçük, 2012: 556, 557). Generosity is forgiveness and the virtue of giving; the virtue of donation; in addition to donating money, it also refers to self-forgiveness, which is related to the supremacy of heart and even self-sacrifice (Sponville, 2015: 121-129). Open handed people who can easily give their own things and enjoy giving are called generous (Demirci, 2013: 139). Mevlana Celaleddini Rumi expresses the concept of generosity, in addition to the generosity in question, in relation to the desires, skin stinginess or generosity, and beyond that, as the generosity of the lover. It is the generosity of life that is expressed by sacrificing life for the sake of God. (Küçük, 2014: 560, 561)

When you give what you have, you give very little. Real giving is giving from yourself. Because what you have isn't what you're protecting because you may

need it tomorrow? (Cibran, 2011:89) Giving from ourselves in the process of vomediation, not as much as we want to give, is to give as much time and effort as needed. While doing so, he/she should think about receiving primarily.

The characteristic of the generous person is to give to where it is needed rather than taking from where it is needed or from where it is not needed; for virtue is more about doing something beautiful, than doing good or not doing bad things; it is not difficult to see that giving is followed by doing good, doing something beautiful, and receiving is followed by seeing good or not behaving badly. (Aristotle, 2005: 69)

“Being in solidarity is a state of mind with the combination of the virtues of justice and generosity.” (Sponville, 2015: 122) “Being in solidarity, as it is said in Latin (in solido), is to belong to a whole. (Sponville, 2015: 122) So the vomediator is there for both parties; they are in solidarity with them to achieve restorative justice. He/she is a whole with the parties. He/she is part of a unity. He/she doesn't see himself/herself apart. For a vomediator in such mood, generosity is more than possible. Because he/she feels himself/herself whole with each of the parties indiscriminately. Generosity can be exhibited effortlessly as a natural consequence of this feeling. “To be in solidarity is to belong to the same whole.” (Sponville, 2015: 123)

Generosity is when a person comes out of the walls of his/her own self and opens his/her heart to another's self. The moments when we don't think of ourselves first are the moments where we're generous. One of the most important factors of the humane vomediation process is that the vomediator gives to the parties from his/her time, knowledge, and existence without thinking about himself/herself first.

Generosity raises us to others; not only that, it raises us towards the free and beyond from our own little self (Sponville, 2015: 141). He/she reflects the virtue of generosity to the process when the vomediator acts by thinking about the parties first. Because "generosity is the opposite of selfishness" (Sponville, 2015: 130). Therefore, the vomediator should be flexible to the parties in the vomediation process and be prepared to give the labor and time required by the process. The vomediator should lead the parties in the process but not patronize. (LaoZi, 2016:10)

Based on Cibran's conceptualization of generosity "Generosity is not giving me what I need more than you, but giving me what you need more than me." (Cibran, 2011: 89); the vomediator's application of the generosity virtue, when

required by the concrete case, is to give from his/her time above average when it is needed most.

The generous person will also give you the right way, for something beautiful; because he/she will give to the people who need, as much as needed, when needed and in the way that the right giving requires; he/she will do so without distress; because what is appropriate to virtue is pleasant and fretless, not very sad (Aristotle, 2005: 69).

The necessity of the mediator to provide generously all the necessary information about the mediation to the parties, can be assessed in accordance with the principles of restoration justice, respect, truth and responsibility. He/she should make sure the parties understand the process and answer any questions. Such full information can only be given by labor and time. Asking the parties to read and sign the vomediation proposal form is not the fulfillment of the information obligation; it is a typical reflection of not wanting to give labor and time, not being generous.

Vomediation negotiations may require repetitive interviews of unforeseen number and length of time. In addition, many times it may be necessary to go to the courthouse repeatedly to get some information about the vom file and perform the processes.

In the mediation process, in some cases, the labor and / or time to be spent for the parties may require the mediator to be generous by being able to postpone his or her wishes and needs. Due to the work of one of the parties, concrete circumstances sometimes require the vomediator to be generous, as is the case in which he/she can carry out vomediation negotiations on Sunday or at the end of working hours, or may carry out negotiations at home or in hospital due to illness, old age.(Vom Reg. LCP a. 5 / 6)

The execution of the process in accordance with the principles of restorative justice and the parties' satisfaction with the process is usually related to the intensity of the extra labor and time provided by the vomediator, regardless of whether there is an agreement. "I think the most loved for their virtues are generous people; because they are useful, and what is useful is "giving". (Aristotle, 2005: 69). The vomediator is useful when he/she is generous as he/she offers valuable contributions to the restorative process. Excessive labor and time in the vomediation process are directly related to the virtue of generosity.

The vomediator should take the water from nature in perfect naturalness (Laozi, 2016: 8) as an example for generosity and always be ready to contribute to the restorative process where and when necessary. "The best is like water; the goodness of water is that it feeds one thousand things." (LaoZi, 2016: 8)

2.4.8. The Virtue of Compassion

"Compassion is the love that causes one to rejoice in the happiness of another and to grieve for his/her unhappiness." (Spinoza, 1677 / 2018: 294). Compassion is pity and feeling the sorrow and unhappiness of any living being in his/her heart and feelings of helping against it (Demirci quoted from "Kubbealtı Lugatı", 245: 2013). In both definitions, compassion is associated with feeling sorry for someone else's pain.

An important consideration in understanding the virtue of compassion is that it is necessary not to confuse the feeling of sadness for the person to whom compassion is felt and the feeling of sadness in favor of the person to whom compassion is felt to the event at the source of the sadness. "Sharing one's suffering does not mean affirming it or sharing the good and bad reasons for the suffering: whatever it is, it is to refuse to be indifferent in the face of anguish and to accept any living being as an object." (Sponville, 2015: 146). In this sense, the vomediator can have compassion for both the victim and the suspect/accused.

Another important aspect of compassion is the feeling of sadness for the parties, but it is not necessary to adopt and carry the sadness. What is essential for the vomediator is that, taking into account the sadness that occurs as a human sensation, it takes into account that the information received from the source is a subjective transference and that it takes responsibility for the restorative justice effectively by using the sadness as fuel and adds to its existing energy. The vomediator does not have to take on negative feelings towards life and the other side, and it is not right.

Both the victim and the perpetrator may fall into a weak state due to the crime compared to the situation before the crime. Mevlana Celaladdin-i Rumi emphasizes the importance of compassion for the weak in Mesnevi. (Rumi, 2007: 64) The central

experience of psychological trauma is the severing of ties with others and weakening. (Herman, 2017:167) Therefore, the victim must first be strengthened towards recovery. Likewise, if the crime is committed, the perpetrator who is separated from goodness and unity with people due to the crime must be reintegrated into the unity. The vomediator's responsibility to achieve recovery, which is one of the fundamental principles of restorative justice, is related to his/her virtues and virtuousness, especially the virtue of compassion.

Mercilessness and compassion are reflections of two different worldviews that are diametrically opposed to the world; mercilessness originates from the individualistic understanding that the beings in the world are completely alien to us, outside of us, and according to this view, one becomes indifferent to people, jealousy, feelings of hatred emerge, and one enjoys the suffering they suffer; on the other hand, compassion is the view that all beings are the same as us in accordance with the view that "you are the one"; as a reflection of this view, we feel compassion and love for people. (Schopenhauer, 2018: 108). Schopenhauer's view called "you are the one", that all beings are the same as us, is the idea of the unity of existence in mysticism. When we consider humanity and the whole being as unity, the virtue of compassion becomes commonplace.

Compassion is the opposite of the greatest evil, cruelty and selfishness, the principle of all evils (Sponville, 2015: 153). Compassion is the true origin of all true righteousness and human love. (Schopenhauer, 2016: 40)

There is a fundamental difference between compassion which is virtue and sympathy. Sympathy is emotional participation in someone else's feelings; to be in sympathy is feeling the same thing together or in the same way with the other (Sponville, 2015:145). In sympathy, etymological tendency is seen as the care, enjoyment and participation. (Sponville, 2015: 143) In sympathy there is a state of joining the other, being close to him/her. Sympathy is the capacity to feel the same that someone feels. (Burns, 2019: 196) This is of course incompatible with the vomediator's role in the process. In compassion, however, there is only sharing one's suffering. Not more. The vomediator should be cautious for the fact that the virtue of compassion does not turn into sympathy for either party; because when sympathy

occurs, virtue disappears. Due to his/her role, the vomediator should be content with empathy with both sides.

One aspect of mercilessness is the pleasure taken from another's disaster; this is never humane; the pleasure of disaster replaces compassion. (Schopenhauer, 2018: 32, 33). "Be merciful to others. Don't show heresy like desiring the harm of others." (Hacib, 2009: 245). The vomediator should keep away from all thoughts and attitudes that would lead him/her to think and act mercilessly against the suspect, especially those who face the phenomenon of punishment for the crime. Because such an approach is contrary to the humanitarian stance inherent in vomediation.

Another flaw that the vomediator should avoid in the vomediation process management is arrogance. We will examine the arrogance flaw in more detail while examining the virtue of modesty. But arrogance is a flaw that adversely affects compassion. Compassion is a kind of supreme volunteerism." (Spinoza, 1677/ 2018: 282). Arrogance is a flaw that degrades this supremacy of heart. "Arrogance is a joy of giving more value to himself / herself than one deserves. (Spinoza, 1677/ 2018: 381) Arrogant people are captive of their emotions; however, they do not have much of the sense of love and compassion. (Spinoza, 1677 / 2018: 381)

"Compassion is a kind of supreme willingness; when I say supreme volunteering, I understand the desire that causes individuals to try to help other people and make them friends only by the command of the mind." (Spinoza, 1677 / 2018: 282). From the beginning of the vomediation process, the vomediator should approach with compassion and approach to help both parties. The compassionate approach should be against both the victim and the suspect within the framework mentioned above. From the first contact with the parties, the sincere and compassionate approach is of particular importance. "The essence of sincerity is compassion; compassionate people are loved by people." (Hacib, 2009 : 100)

It may be considered that a sincere, compassionate approach in the first contact of the vomediator by calling the parties to make vom information and conciliation proposals and that he maintains his compassionate approach in the conciliation proposal and preparatory negotiations and direct and indirect negotiations may be necessary within the framework of restorative justice principles such as improvement, repair and respect.

It can be considered that the vomediator should take the time to listen to the parties and only focus on them and what they say during the negotiations and empathize may be necessary in the framework of restorative justice, respect, recovery and repair. For this reason, it can be considered that conducting vom negotiations face-to-face is of special importance and one of the biggest handicaps of the processes carried out over the phone is the possibility of limiting the sharing of emotions.

The necessity of the vomediator to refuse to make a judgment in accordance with the information received from the parties, to remain observer and to maintain his compassionate attitude to both parties, can be assessed in terms of the principles of restorative justice, relationships, respect and restoration.

In addition, it can be considered that the vomedaitor is required to encourage the parties to show compassion to each other in the vom negotiations, to the extent required by the concrete event, in accordance with the principles of relationships, concensus and the restoration.

2.4.9. The Virtue of Forgiveness

"Forgiveness is the virtue of remittance." (Sponville, 2015: 163). Forgiveness is an end to the hatred; it is the virtue that has triumphed over righteous vengeance, hatred, anger, the desire for revenge or punishment; but it is not to ignore the error or insult, that is feeling no longer anger at the person who has insulted or harmed us. (Sponville, 2015: 164). "The real meaning of forgiveness is not to have anger at the person, but also not to accept what he/she has done." (Goleman, 2015: 95). Learning to forgive is one of the most important steps to improve your life, physical and mental health. (Hallowal, 2005: 18)

By forgiving, we do not allow another person to influence our system by preventing him/her from reaching us and not perceiving it personally. (Hallowal, 2005:126). "One of the tricks of guiding anger constructively is to maintain a sense of compassion for a person even when you take all your might to oppose misconduct; this brings us to the difficult one: separating one from what he or she does."

(Goleman, 2015: 95). Goleman and the Dalai Lama propose compassion for the actant while opposing the action. (Goleman, 2015: 95)

We believe that the most important element of forgiveness is to understand who will be forgiven. When we accept some as forgiving, we say that they are understanding; forgiveness is the truth-specific understanding of the right person (Aristotle, 2005: 125). Understanding does not mean accepting negative behavior; it is only to observe the perpetrator of the action and to evaluate why he/she has performed using our minds. "We understand that the same people carry reason; if we say that they are sane, they are judging correctly; we are putting the understanding, the right judgment, the sanity and the mind to the same people." (Aristotle, 2005: 125). "Not to mock, not to worry, not to disgust, to understand." It is the forgiveness itself." (Sponville, 2015: 172). In this way, forgiveness is possible with "reasonable" approach and "understanding".

The vomediator's virtue of forgiveness during the vomediation process is related to the mistakes made against him/her in the process. The subject of the victim's forgiveness of the perpetrator due to the crime is beyond our subject. In this context, both parties may exhibit defective behaviors during the process against the vomediator. In this sense, there is no distinction between the victim and the perpetrator. What is essential in this case is that the vomediator suffers from a grievance due to the mistake made against him/her. In such a grievance, either the grievance will be forgiven by the vomediator or it will create a conflict between the vomediator and the party exhibiting the damaging behavior. Failure of one of the parties to attend a vomediation appointment without giving any reason, being too late, being rude to the vomediator, insulting, attempting to physically intervene can be counted as the party behaviors causing the vomediator's victimization.

Of course, it is possible to raise different opinions as to which level of party flaw is forgivable. Jankelevitch states that forgiveness is only possible if it is explicitly or implicitly apologized, that someone who does not admit his/her mistake and does not regret it can never be forgiven, and on the other hand, forgiveness is not possible when the crime is too severe. (Quoted by Derida, 2015: 27).

There is nothing that the wise can forgive; not because he/she was not subjected to injustice or assault, but because the thought of evil never governed him

/her (Sponville quoted from Spinoza, 2015:174). As Spinoza witnessed, many wise people unconditionally forgave the misdeeds against themselves beyond Jankelevitch's limits. When we look at forgiveness from this perspective, it is possible to consider that forgiveness is not related to the severity of the flaw but to the capacity and consciousness of the addressee to love oneself and people.

The second approach seems to be true that forgiveness is related to the individual and thus the vomediator's awareness and perception. However, when we think that every vomediator is not at the level of wisdom, the vomediator will make a decision to forgive or not to forgive as a result of the evaluation of the mistake made against him.

If the mistake that vomediator personally forgives or does not forgive will affect his/her leadership in the vomediation process, he/she should in any case withdraw from the process.

Should he/she continue to manage the vomediation process, he/she should not be influenced by the action concerned and should manage the process, taking into account the interests of both parties. Forgiveness is the opposite of resentment and resentment is hatred; forgiveness merges with remission. And the mistake is accepted as it is without forgetting, justification: (Sponville, 2015: 165)

In many cases it is necessary for the vomediator to be forgiving in the vo mediation process, to keep the process alive and to conclude the process in which he/she started by fulfilling his/her requirements. The forgiving approach is a reflection of flexibility. Being flexible is also a condition for managing the vomediation process, which includes many uncertainties.

Although the vomediator cannot be forgiving, he/she should not act with hatred and/or anger due to the damaging behavior against him/her, and should not specifically reflect such hatred and anger as a reason for an unfair practice against the addressee. Forgiveness is an end to hatred. (Sponville, 2015: 173) If the vomediator is unable to forgive the addressee, he/she must withdraw from the process in accordance with the basic principle of observing the interests of the parties. Another basic principle, the principle of providing confidence in the sense of justice, should not be damaged by the victimization he/she experiences.

2.4.10. The Virtue of Gratitude

Gratitude is a kind of love aroused in us by the behavior of someone we feel grateful for and therefore believe that he/she has done us favour or at least has the intention to do favour. (Descartes, 2017: 178). Ungratefulness is a pure weakness and contrary to gratitude; because gratitude is always a virtue and one of the most important social ties of man. (Descartes, 2017: 179)

Gratitude allows our relations with people to be more humane and to spread healthily to a long time. Because when gratitude about the behavior is conveyed, this appreciation may have a positive effect on the other side and thus the relations will be strengthened.

Gratitude has the same feature in good faith: even more, because it is based on behavior that affects us very much and makes us feel the desire to respond; therefore, it is much stronger, especially in the souls that have had their share, albeit slightly, of the nobility and the generosity. (Descartes, 2017:178)

Ungratefulness is peculiar to arrogant people who see everything as their right; either fools who don't think about the goodness they see, or people who seek help when they feel helpless and hate people who help when they're done; because these people have no will or will not hope that they will be able to reciprocate the goodness they see; they think that they can deceive people as they see everyone as goods to be bought and sold like themselves, because they believe that nobody will do any good without waiting for a response. (Descartes, 2017: 179)

Gratitude is the joy of what has happened or what has existed. (Sponville, 2015: 187). It is primarily to be joyful and satisfied with the existence of the whole life. What life gives us is to see and appreciate. Positive attitude towards life and people and positive stance. This is the intellectual foundation of a person who is ready and willing to give it to life, not to take it from life. It is important that the mediator has this positive approach in the process and is willing to give it from himself/ herself. Life is not debt; life is grace, existence is grace, and this is the highest lesson of gratitude. (Sponville, 2015:187). Gratitude doesn't detract from us. It is to respond. (Sponville, 2015:182). The answer to the question of responding to what is to respond to the life which is grace. This response may be reflected in the

vomediatio n process as joy, positive approach, courtesy and generosity. Being grateful allows us to be in an existentially positive mood; and it is the inspiration for many virtues.

It may be that the vomediator, who is grateful to life, is grateful for this virtue regarding the vomediatio n role. We can speak of gratitude for being a vomediator and for being able to conduct and mediate the vomediatio n process. This reflects gratitude towards life in general. It is a gratitude for my situation and position. There is joy and delight in me because of this situation and position.

Gratitude is also associated with the virtue of loyalty; being grateful to existence or life certainly requires loyalty in practice. Thus, being grateful is built on the intellectual basis from which all virtues can be fed. Gratitude feeds generosity; and it almost always feeds gratitude. (Sponville, 2015: 185).

Is there anything easier than gratitude? (Sponville, 2015: 182). Sponville asks. Yet gratitude cannot be said to be easily possible in everyday life. In fact, it is difficult to feel this virtue in the crowds and in business and family rush. The most beautiful thing is the moments of silence. By creating such moments of silence daily, the vomediator can continue his/her life and vomediatio n processes as renewed and strengthened, remembering what he/she can be grateful for. Because gratitude and thankfulness is an affirmation of our togetherness and unity with life and people. It is also important that the vomediator maintains these ties during the challenging processes. Because the strong commitment to life and people contributes to overcoming the challenges.

"The selfish person is ungrateful; not because he/she doesn't like to receive; but because he/she doesn't like to admit that he/she owes something to someone else - and gratitude is that acceptance." (Sponville, 2015: 182). Ungratefulness is not being unable to receive, but not being able to give some of the joy received or felt - in the form of joy, in the form of love. As a result of our gratitude, our joy and love will naturally make us more joyful, peaceful, enthusiastic and affectionate. The returning joy; returning love (Sponville, 2015: 183). These values, of course, contribute to the vomediator's happiness and success in the process.

Gratitude is distinguished from ungratefulness by knowing to see the full cause of his/her joy in the other. (Sponville, 2015: 185). The vomediator's gratitude

to the parties is limited. This gratitude is thanking the parties for their contribution to the process. "Thanking is to give; gratitude is sharing". (Sponville, 2015:182). In this sense, it is an expression of gratitude for the vomediator to thank the reconciled persons during and after the vomediation process, or to the parties who have made efforts to achieve restorative justice, even if there is no vom, for their participation and efforts. Because the vomediator does not carry out the process alone as the director of the process; but with the participation of the parties and at the rate of participation. Expressing gratitude to the parties therefore and within this framework is meaningful and valuable. The parties may be more willing to participate at the beginning or throughout the process as a result of appreciation of their participation in this process; after the appreciation at the end of the process, they will respect the vomediation institution and the process and may be more willing to participate in any further disputes.

2.4.11. The Virtue of Modesty

"Modesty and humility means not being arrogant, unpretentious". (Demirci, 2013: 354). Modesty is a character that may emerge with the improvement of the arrogance and pride. When humility is left, what is lost is the inner wealth. (Epictetus , 1994: 83).

According to Aristotle, modesty is the midpoint between the supremacy of heart and being inferior; whoever goes too far from the supremacy of heart falls into arrogance, and whoever is low in the supremacy of heart is inferior. (Sponville, 2015: 196). Arrogance is when one considers himself/herself greater than others; its expression is called arrogance." (Demirci, 2013: 354). Başgil, in his book for young people, recommends that "Be humble; the humble man is like the fruit tree, the fruit branch bends to the ground because of the abundance of its fruits." (Başgil, 2017: 61).

Modesty arises from love for truth and submits to it; to be humble is to love the truth more than yourself. (Sponville, 2015: 194). "Consciousness and sense that one's moral value is little compared to the law is modesty" (Sponville, 2015: 198). In

this way, the approach brings human love. "Where modesty is, there is universal human love", St. Augustine said. (Quoted by Sponville, 2015: 202)

Arrogance and pride are important imperfections and can cause man to make difficult and even impossible mistakes. "Arrogance brings disaster." (LaoZi; 2016: 8). "In the absence of humility, all space available is dominated by 'I, myself'; modesty is that the 'self' tries to get rid of the illusions it has created with itself." (Sponville, 2015, 203). In order to live in harmony with the world, one must strive to develop love and intelligence, which is primarily by trying to be modest, caring for all beings, and avoiding the dream that personal ego is superior to everyone and cannot be destroyed. (Fromm, 1995: 147). The human being who gets out of the self-dominance of the self and who has entered the path of humility has the opportunity to establish and maintain positive relationships with other people. "The modest man is loved among the people, and the harsh and arrogant man is not loved among the people; the modest person will remain in dignity for a long time and the harsh and arrogant man will not be respected." (Hacib, 2009: 116)

The virtue of modesty has a very important function in vomediation process management. "Restorative values can be distilled to two key underlying values — humility and respect. Furthermore, we should approach our work with wonder" (Johnstone, Ness quoted from Zehr, Toews, 2011: 86) As explicitly stated in the Vom Reg. LCP, the vomediator is the director of the vomediation process. (Vom Reg. LCP a.4/1-1) However, the fact that he/she is the director of the process should not result in immodesty. In this process, the modest vomediator "takes the leadership, but does not patronize; this is the deep virtue." (LaoZi, 2016: 10).

The harm of arrogance is not only to others but to the person himself. Arrogance kills man's creative power; the person who thinks that he/she possesses qualities that he/she does not possess does not endeavor to obtain them, and thus his/her ability becomes blind. (Demirci, 2013: 354). However, the vomediator should not say "I am done", constantly renew himself / herself and try to develop skills, qualities and virtues in particular. "Modesty is not knowing what it is, but knowing what it is not and accepting it; this acceptance is directed towards nothingness and is therefore humane". (Sponville, 2015: 193)

A humble vomediator in this approach can successfully manage vomediation processes that are very time-consuming. "No one who is arrogant sees any person deemed worthy of respect and service other than himself/herself." (Demirci, 2013: 354). This approach may lead to inadequate implementation and failure of the vomediation role step by step. Arrogant people who underestimate people, insolent people are not loved, people stay away from them; the reputation of the arrogant person gradually decreases. (Hacib, 2009: 86)

The vomediator should contemplate his/her role well and try to integrate it into a worldview as required by his/her role and try to reflect this on his/her attitudes and behaviors and to be modest. Because the parties want to see the vomediator as "one of us" (Roberts, 2007: 45) To be one of us, first of all, is related to modesty. Laozi's emphasis on the approach of the modest individual should always be considered by the vomediator in process management. "he/she does not manifest itself, that is why it is obvious; that is why he/she shines; he/she does not praise himself/herself, that is why he/she achieves success; he/she does not have arrogance, that is why it is permanent; he/she doesn't mess with anyone, that's why nobody messes with him/her; the old saying "You can be whole only by leaning" is true, it is indeed what leads you to the whole." (LaoZi, 2016: 23). It is only possible to integrate with the parties and with everything that exists with a modest approach. An arrogant approach that looks at the parties from above will form an obstacle between the vomediator and the parties and will prevent the establishment of a healthy, trustworthy relationship. From this point of view, the vomediator role should not be confused with the roles of judge, prosecutor and lawyer, and behaviors that can be considered appropriate to these roles should not be displayed as vomediators. The vomediator's ability to act within the limits and naturalness of his or her role is related to the virtue of humility.

2.4.12. The Virtue of Simplicity

When we lead a simple life, our whole appearance is more honest, more natural. This true simplicity will give us clarity, softness, innocence, joy and serenity. Simplicity is a commendable virtue. (Foster quoted from Fenelon, 1996 :77). Laozi,

with his words "Show simplicity, accept simplicity." (LaoZi, 2016:19), he invites people to lead a simple life.

Simplicity is freedom, complexity is captivity; simplicity brings joy and balance, and complexity brings concerns and fear. (Foster, 1996 : 77). "Simplicity is the opposite of hypocrisy, complexity, and arrogance." (Sponville, 2015: 206).

No matter how valuable they are, they are prepossessed by and devoted to activities (Powell, 2007: 32). Simplicity is primarily awareness of values. It is knowing one's own values and focusing on them. When we talk about simplicity, which is virtue, these values must of course be integrated with virtues. "We should look at things that we believe as naked, understand how bad things are and not consider them more valuable than they are. Arrogance is very misleading, because when you start to do serious things, you will experience greater frustration". (Aurelius, 2009: 61).

A person who has the virtue of simplicity determines his/her priorities with the awareness of his/her values. He/she gives priority to what is important, and excludes what is not important. "The first in importance is the first in priority"(D'Anna, 2005: 193). "A simple person lives as if he/she breathes, no more effort, no more glory, no more influence, no more shame. Simplicity is not a virtue to be added to existence. It is existence itself with nothing added." (Sponville, 2015: 206). The person who has attained simplicity in his/her life is expected to be careful and alert against the negative effects that will disrupt the balance of his/her future life Simplicity, without eliminating consciousness and thought, manifests itself with the capacity to go beyond them, to get rid of them, not to be deceived by them, not to be their prisoners." (Sponville, 2015: 207).

Human beings become simple by what they derive from their lives and they maintain their simplicity by not accepting the values that prevent simplicity. When we remove the unworthy from our lives, we have the capacity to act with clarity, lightness and relief from the weights .

People adapt to and play the roles assigned to them, and reinforce the role as they think they should. (Powell, 2007: 35) However, it is important to play the roles we define for ourselves rather than the roles defined for us. Simplicity is free in its own flow. (Sponville, 2015: 210) On the other hand, in the roles assigned to us,

values must be controlled by our system of values within the framework of our worldview. Such an approach is the necessity of authentic life. Simple people lead an authentic life. He/she cleared his/her world view, values, attitudes and behaviors of the imitation and is unique to himself / herself. Simplicity is spontaneity. (Sponville, 2015: 210).

With such an approach, it gradually takes away the complexity and chaos from human life. Because this is a process. It is not possible for a person to find and extract the values of life quickly. Our values glide through our lives and settle in the center of our lives. Therefore, "simplicity is gradually learned." (Sponville, 2015: 212)

When we compare the complexity of thought with the simplicity of view; Goethe said, "everything was simpler than we could have imagined, but at the same time it is inextricable than we can imagine." (Sponville, 2015: 207). Nature is the simplest. "Rose is causeless, gives flowers because it gives flowers, has no self-concern, does not want to be seen..." (Sponville, 2015: 206). The simple person has no concern about being seen, recognized and appreciated by the society. It is possible to be inspired by nature as in this example by making deeper contact with nature and gradually recognizing and integrating.

In the process of simplification, as the contact with nature is established and as it turns into itself, 'I' is redefined. I, of course, still exist here; but lightened, cleaned and liberated (Sponville, 2015: 214). Such lightening, cleaning and liberation do not happen by themselves. It is possible to achieve a lightening, cleaning and liberation that can be realized by overcoming the imperfections and the virtues dominant in the individual. In this respect, "simplicity is nudity, dispossession, poverty; only wealth is everything, only wealth is nothing." (Sponville, 2015: 208).

Simplicity is the smoothness of spirit and conduct. (Sponville, 2015: 209). With smoothness of spirit and conduct resulting from simplification, and of course the carrying of other virtues, the vomediator will be able to carry out the vomediation process peacefully and effectively in accordance with the principles of restorative justice.

The vomediator will simply avoid certain attitudes that will disturb the parties. Since the parties are in need of listening each other during the vomediation

process, a vomediator with the virtue of simplicity will be able to stop his/her speech correctly and be open and ready to listen to his/her addressee. On the other hand, a number of extremisms that the parties tend to exhibit can be prevented at the source by the approach and interaction of a vomediator who has the virtue of simplicity, and even if not, the vomediator can lead the parties to continue the negotiations in a balanced and simple manner. If the complainant is in extreme expectations from the vomediation process, the vomediator may realize a transformation process that does not immediately oppose the demand, tries to understand the reasons and explains the lawful approach with simplicity and invites the party to bring the demand to a legal framework. We believe that the virtue and virtuousness, especially the virtue of justice, simplicity, courage, goodwill and courtesy, contribute to such situations and dialogues where the parties are encouraged to move from their positions to their needs, and the vomediator should not be left behind and take on the responsibility required by his/her role. Simplicity is one's forgetting oneself, pride and fear. (Sponville, 2015: 213). In such a case, the vomediator must perform the role of establishing "honest dialogue" in which the concrete case invites him/her in a relaxed and loyal manner without worrying about himself/herself. Because having virtues including simplicity will give the power to the vomediator. Simplicity is comfort against anxiety; and joy against anxiety. (Sponville, 2015: 214)

One of the contributions of the simplicity to the vomediator in the vomediation process is that it supports its stay in the present. "The present is his/her eternity." (Sponville, 2015: 214). "As long as people concentrate on the past or the future, they do not need much attention in the present time." (Powell, 2007: 36). The vomediator should be free from the burdens of the past and the concerns of the future when directing the vomediation process. By carrying the virtue of simplicity and with the consciousness gained as a result, he/she can become a concrete example of these values and removes away the suspicious minds which call it an utopia. Some files may have had no positive results in the past; but they (of course it is appropriate to learn) are a thing of the past. It is now necessary to be at the present fully and efficiently and to be in good faith. On the other hand, future concerns about whether the vomediator can be successful will be detrimental to his contribution to the present and the concrete event. The vomediator should begin with a simple approach to each

case with a deep breath, goodwill and positive mood and concentration. Thus, he/she will gather his/her power and energy and reflect it to the concrete event.

Another aspect of simplicity is the aspect that is reflected in the vomediator's communication.

Simplicity is discourse sincerity. (Sponville, 2015: 209). "It is a life without any exaggeration, with no flourish, free from all the promises and lies" (Sponville, 2015: 206). The vomediator should be able to put forward a sincere, honest approach in the communication with the parties. This will be possible by carrying the virtue of simplicity. The vomediator should provide information to the parties concerned about the vomediation process in a simple and understandable manner and be pleased to be understood. If a route, which is not devious, is followed, it is possible to arrive at the desired destination easily; the real should not be explained in confusion. (Seneca, 65 / 2018: 167-168). The vomediator is open to the simplicity of truth. (Sponville, 2015: 208). As an application of the virtue of simplicity, the vomediator must first of all speak openly and should not need implicit speeches. (Sponville, 2015: 209).

The virtue of simplicity can be an important contribution to the moments when the vomediator invites to speaking the truth, not to come to judgment, but to carry out the restorative process. "Simplicity is common sense, which means intellectually correct judgment; that the person is not full of what he/she believes he/she knows; but he/she is primarily open to reality." (Sponville, 2015: 208) This characteristic of the simple vomediator is a positive attitude that prevents the vomediator from prejudicing the parties and the matter. "A simple person does not try to surpass." (Sponville, 2015: 210). However, "a simple person is a person who does not pretend, is naive, without any cheat and secret." (Sponville, 2015: 212). This balanced attitude points to the midway in which the vomediator will walk while encouraging the parties to speak the truth. The vomediator should be able to take the initiative in this way when both sides look at the truth from different angles and emphasize their own truth. The aim of the vomediator here is not to find the truth, but to try to make the parties rely on the truth. "Simplicity is truth against arrogance." (Sponville, 2015: 214). At this stage, the vomediator invites the parties to concentrate on truth with simplicity. "The opposite is simply false". (Sponville,

2015: 207). The victim offender mediator strengthens and encourages the parties to speak the truth with their attitudes and emphases (confidentiality, mind, conscience, etc.) that invite them to refrain from all kinds of fraud. "The truth is enough for the truth and this simplicity is the truth itself" (Sponville, 2015: 206). The vomediator must perform this delicate role in a calm and natural way. "Simplicity is carefree, but not sloppy; deals not with the self, but the truth." (Sponville, 2015: 211). The vomediator's approach to the parties and issues with simplicity can lead the parties in a positive attitude to conduct the restorative process based on truth. When this happens, "simplicity unveils the truth!" (Seneca quoted from Euripides, 65 / 2018: 167)

Simplicity must also prevail in the vomediation report. "Intelligence is the art of reducing the most complex to the simplest." (Sponville, 2015: 208). First, the vomediator should avoid writing a pompous report, adorned with unnecessary words. Based on understanding; he/she should prefer simplicity in words and expressions, not with the arrogant intellectual approach of the incomprehension. "There is no need for a long narrative if we can tell it briefly, or a closed conversation if we can express it clearly." (Sponville, 2015: 209). Reconciliation report should only include statements that are appropriate to the nature of the vomediation report and related to the vomediation process. It is not appropriate for the parties to submit their claims and defenses on the vomediation report, to create a report on the basis of the statements of the parties and to accept the statements of one of the parties as invalid or valid and to contradict the principle of confidentiality, and to provide information regarding the negotiations in the absence of a resolution.

Simkin's opinion on the question that "who can be a good mediator" emphasizes the importance and simplicity of the vomediator in process management. "Sufficient personal impulse and ego, characterized by the desire to hold oneself in the background." (Quoted by Moore, 2016: 576)

2.4.13. The Virtue of Tolerance

Mevlana Celaleddini Rumi, saying "it is a shame that one sees nothing but shame. How does the secret pure soul see shame?"(Rumi, 2007:100) it is stated that

it is not right to see shame in people. However, the human (soul) who will not see shame in humans is the secret pure soul. That is to say, not seeing the shame is to be expected of a person of a certain level of consciousness and purity, not of every person. Besides, the width of tolerance is related to the deepening of the idea of unity of existence. As Rumi stated in his poem, "Come near, come near! Since you are me and I am you. Why this conflict, this stubbornness?..." (Kadir quoted from Rumi, ,2010 : 105) The condition of living in tolerance and harmony with people is to reach "unity" by overcoming the fight and anger. "The idea of unity, which expresses the concept of the unity of existence in the mysticism, is to know and to have realization and consciousness that there is no being other than God. To know that there is no real existence other than the right and its manifestations." (Uludağ: 2001:371,372)

One can only tolerate an attitude towards himself. Only then can we speak of a virtue." Tolerance is virtuous only when we take responsibility on ourselves, when we overcome our own interests, our own anguish and our own impatience; tolerance is valuable only if it is against one's self and for the others. (Sponville, 2015: 218) "It is not tolerance to tolerate others' suffering, to tolerate injustice that we are not the victims of, to tolerate the dread that denied us; it is selfishness, indifference, worse." (Sponville, 2015: 219)

However, we can fully tolerate what we have the right to block, condemn and prohibit. (Sponville, 2015: 232). To show tolerance is to take responsibility; Tolerance, which throws responsibility on someone else, is not tolerance. (Sponville, 2015: 219)

This is why the necessity of tolerance should be attributed to the imperfections in the nature of human existence and the consequent lack of self-control. Accordingly, when we act with Buddha's thought, the imperfect behavior of people can be met with tolerance." I will be patient as an elephant who patiently resists breaking words, enemy arrows in a war. Because most people lack the ability to control themselves. People benefit from trained elephants in wars. Likewise, the best of people are self-educated people who can show patience in peace for bad behavior." (Mascaro quoted from Buda, 1997:103)

Marcus Aurelius, too, provides a flexible and useful approach to justification for tolerating people's misconduct:

If people are showing injustice to you, think about why they do it. If you do that, you won't feel angry at them, you won't suffer, you will only pity the other person. If you have the same good concept as the other, you can tolerate his/her behavior, because in a similar situation you would behave in the same way. But if your perspectives are different, imagine that the other person sees things as distorted, so that it will be easier to tolerate him/her. (Aurelius, 2009: 80)

It can be considered that the tolerance virtue of the vomediator in the vom process will contribute to the development of trust-based relationships and the thought that the tolerated parties are understood and treated by the vomediator.

On the basis of the continuation of the virtue of tolerance, it can be thought that, like any human being, the parties to the reconciliation process should be considered as flawed as other people. Once this fact is accepted, it will be more possible to tolerate the flaws in the concrete event. This is because the vomediator has the responsibility to keep the process he/she directs as much as possible within the framework of restorative justice principles and vomediation legislation and to carry out the result correctly and appropriately.

The ideal of the vomediation process can be considered as a vomediator's cautious and prudent approach to minimize the situations that should be tolerated. . In this context, the necessity of the vomediator to take measures for peaceful and effective process management can be considered. "The solution must always precede the problem." (D'Anna, 2005: 264). It may be considered that non-tolerant behavior of the vomediator may create a situation that may damage the relations between the parties and between the parties and vomediator. It can be considered that the vomediator's tolerability from the first attempt to make an appointment with the parties is a necessity within the framework of the principles of respect, relations and responsibility restorative justice. However, it can be considered that it is necessary for the mediator to be as tolerant as possible within the legislation, in line with the principles of respect, relations and responsibility of restorative justice, assuming that the parties may have defects.

Even if there is no tolerance at all, it can be thought that the vomediator may have the perception that it is tolerant to the parties. "We feel like we have the right we don't have." (Sponville, 2015: 232). If there is no place in the courthouses and public institutions and organizations for this purpose, it may be considered that the mediator as a negotiation environment is the necessity of determining a safe meeting place for

the interests of the parties, where they may feel peaceful, to fulfill a duty arising from the legislation, not to show tolerance to the parties. (Vom Reg. LCP a.35)

The concept of tolerance is adopted in philosophical language and everyday language to denote the virtue that stands against fanaticism, sectarianism, authoritarianism and intolerance (Sponville, 2015 : 231). Evaluate the necessity of the vomediator to be free from fanaticism and to approach the events by being unifying in line with the principles of responsibility, respect, relations of restorative justice. (Vom Reg. LCP 6/d, Barsky, 2017 : 169)

2.4.14. The Virtue of Purity

What is pure is the clean, the spotless, the dirtless (Sponville, 2015: 237). Pure water is unmixed water, only water. (Sponville, 2015: 235). If we hadn't met purity in our lives, we wouldn't know anything about dishonour (Sponville, 2015: 235).

Even if a person stands next to the fresh water source and curses it, the source continues to spring the same water and knows how to get rid of it even if dirt is thrown into it. It carries away everything, there's no dirt left. So you have to depend on freedom, tolerance, simplicity and modesty so that the water in it is not stagnant but flowing. (Aurelius, 2009 : 104).

Marcus Aurelius linked the formation of virtue of purity to the existence of many other virtues. Plotinos, on the other hand, finds the virtue of purity in the contemplation of God with the carrying of virtues. "The pure soul, the spiritual man, the original act of spiritual man is thought, or rather, the contemplation of God; the lower-level virtues regulate the activity of the unified." (Hadot quoted from Plotinos, 2016: 79)

From this point, Plotinos describes the true man who has attained purity.

True man is otherwise; it is free from all things of animalism within us. He/she has the virtues of the plane of thought that are resident in the soul separated from the body, which separates itself; it is both in this world and completely separated. (Hadot quoted from Plotinos, 2016:79)

The "self" can only be pure to the extent that it is purified of itself; ego pollutes everything it touches (Sponville, 2015: 240)

According to Plotinus, the biggest issue is to learn to live everyday life. From contemplation, we must live such a life, that life should prepare us for contemplation again; the goal here is to concentrate internally and achieve sufficient control in order to be ready to meet the Divine presence the moment it reappears, and at the same time it is necessary to know how to continue daily life, even to illuminate it with the light coming from the contemplation, this will be the work for a complete internal refinement, purification and unification. (Hadot quoted from Plotinos, 2016: 74)

"To love with purity is to agree not to possess, to the lack of power and control, to cheerful and unsparing acceptance." (Sponville, 2015: 240). While the vomediator is the director of the vomediation process, it is only about managing the process. To manage the parties, to control them, to impose actions, to pressure them to reconcile, to try to get them to negotiate through manipulation or pressure when they do not want to, are reflections of the lack of purity. The vomediator's ego in this approach is completely in the foreground; the interests of the vomediator, not the party's interests, constitute the main agenda of the vomediator. The interests of the party or the parties are completely ignored and they are subjected to harm. Evil is to be indifferent to the suffering, desire and freedom of the other, to be ready to do evil to the other to do good for himself. (Sponville, 2015: 241). With this bad approach, if an unfair agreement is made, it creates anguish for the party against whom the agreement has been made. This constitutes the concrete reflection of the absence of purity in the vomediator.

"The pure person is the one who has proved his/her unsparing position; he/she is completely devoted to the case, in this case he/she who seeks neither money nor honor; As Fenelon says, he/she who forgets himself/herself is the one who sees himself/herself as nothing and confirms that this purity is the opposite of self-interest, greed and all sorts of "self" (Sponville, 2015: 242). Sponville also defines purity as "poverty, dispossession and waiver". (Sponville, 2015: 242)

It can be considered that the mediator's virtue of purity will be the solid foundation of his integration with his role. In this approach, it can be considered that it is possible to be ready at the highest level to give its time and labor while performing the task of vomediator. Even if the vomediator is forced to continue the process, it can be considered that he should make intensive efforts, should not avoid

face-to-face meetings when necessary, and have the virtue of purity in order not to get to work easily.

In particular, because many of the mediators have other professions, there may be a risk that mediation remains a secondary job. For this reason, it may be beneficial if the lawmaker gives more files by making positive discrimination against the people who give the necessary care, labor and time, and even arranges this profession as full-time optionally.

Vomediator's role is not necessarily to reconcile the parties concerned, but to make every effort to reconcile them within the legal framework. It can be considered that the fact that the Vomediator specifically wants the parties to compromise may cause them to make mistakes and impose on the parties the result they want.

It can be considered that, in general, because of restorative justice and love for people, the intention of conciliation in general would be appropriate and beneficial. This intention may be reflected in the concrete event. Such an approach allows the vomediator to fully inform the parties, to explain the vomediation institution in an effective and enthusiastic way, and to keep the process effective and efficient until the end. The nuance between asking for conciliation and intending to conciliate is important. This approach is related to the vomediator's purity virtue in the process.

The pure is not afraid of anything. (Sponville, 2015 : 245) Purity is the power to monitor dirtiness (Sponville, 2015 : 245). Since the subject of vomediation is a crime, in the event of the crime being committed, it faces dirtiness. The vomediator observes the possible dirtiness without judging and tries to bring the parties together in a pure place where the dirtiness is cleaned, if any, within the framework of restorative justice. The effectiveness and efficiency of this journey is primarily related to the vomediator's purity virtue in the process.

“The corrupted person sees evil everywhere and takes advantage of it; the pure person does not see evil in any place; rather, he/she sees evil in his/her place, where he/she suffers; In selfishness, cruelty, evil...”(Sponville, 2015 : 239). Therefore, the approach of vomedaitor to the parties can be expected to be elegant, unifying and embracing.

2.4.15. The Virtue of Tender-Mindedness

In Katudgu Bilig, Yusuf Has Hacib emphasizes “tender-mindedness in the behaviors of the mind, no matter how complex the work he/she is dealing with. “(Hacib, 2009: 94) “Tender-mindedness is the midpoint between inconsolableness in anger and relaxedness; the tender-minded people stand in the right place in the midst of "angry, difficult and savage" and "slave and fool" human beings, thanks to the composure or extreme calm.” (Sponville, 2015 : 257)

Softness is primarily inner peace. (Sponville, 2015: 251) Without peace in us, it is not possible to reflect peace and softness to the outside. Therefore, the vomediator must first try to achieve harmony and peace within himself/ herself so that he/she can bring peace to the outside. “Peace without hatred, hardness, insensitivity” (Sponville, 2015 : 251) is associated with the tender-mindedness virtue and other virtues.

By evaluating flexibility and softness together, Laozi combines flexibility and softness with survival and harshness with death. (LaoZi, 2016: 81) "Softness submits to reality, to life, to being, to the relativity of the everyday; flexibility, patience, sacrifice, the virtue of orientation..." (Sponville, 2015: 254). Taking the softness and flexibility of life as an example, the vomediator's flexible and soft approach will contribute to the vomediation process within the framework of restorative justice principles. Because " softness is acceptance, respect, openness". (Sponville, 2015: 253).

The vomediator must combine the righteousness and the correct truthfulness with tender-mindedness. Speak softly but do not speak away from the truth (Emiroğlu quoted from Rumi, 2010: 83). Because the word hurts. (Emiroğlu quoted from Rumi, 2010 : 91). In one of his poems, Yunus Emre mentions the necessity of saying the word carefully and clearing it of the negativity, emphasizing the negative consequences in the business, human relations and his/her own life. (Quoted by Gölpinarlı, 2010 : 276)

The tender-mindedness of the vomediator will encourage the participation of the parties in the process and reinforce their stay in the process. It is also important that the vomediator's tender-mindedness virtue is shown in the moments when the

truth of the parties is mutually negotiated and the truth is sought. "According to Mevlana, the wise ones favor those who say eloquent and true words; because the head of fresh water becomes crowded and the right word ultimately prevails." (Quoted by Emiroğlu, 2010 : 65)

"The good man in the face of the bad word, by plugging his ears, takes a stand against the word, and is not affected by it." (Emiroğlu quoted from Rumi, 2010 : 65). "A wise, knowledgeable, virtuous person should respond softly and calmly even to the rude words, and respond to the harsh words with eloquent words. He/she must respond in a mature way to such evils." (Hacib, 2009:167). the vomediator may also be confronted with the rude words and behavior of the parties; In such cases, he/she should keep his/her tongue and word soft, (Hacib, 2009 : 95) instead of responding to this rudeness in the same way, he/she should preserve the silver tongue should remain calm. In this way, he does not conflict with the party who is rude to him/her, which is a condition that the vomediator should pay special attention to not enter into conflict with the parties for any reason. The vomediator's maintaining his calmness and not responding to rudeness with rudeness is related to his/her virtues and virtuousness, especially the tender-mindedness.

The vomediator should manage the vomediation process in a gentle manner towards both sides. "The vomediator brings a nonjudgmental attitude and a positive and hopeful demeanor and conveys a sense of personal integrity and sensitivity to the needs of the parties." (Umbreit, 2001: 70) "Although extra deference is shown to victims because of the context of what has happened to them, it is important to note that from a humanistic perspective, offenders are also in need of safety, choice, and respectful language." (Umbreit, 2001: 57) The tender-minded approach is very important in terms of the restorative process, especially in the telephone conversation that the vomediator makes with the parties at the beginning of the process. The first contact is critical. "Mediators need to be assertive and persuasive, yet sensitive and cooperative, in attempting to schedule a visit." (Umbreit, 2001: 75)

"Softness is a force without harshness." (Sponville, 2015 : 251). When we consider "virtue as power" (Sponville, 2015 :16), tender-mindedness also has reflections as power. But this power will of course be a soft power. "In the final analysis, softness is a force; therefore a virtue; it is a power in peace, it is a peaceful

and soft power, it is full of patience and tolerance.” (Sponville, 2015 : 252). Softness, combined with patience, is a virtue and power that the vomediator must have to keep the process alive. Conducting the vomediation process with harshness, without tender-mindedness, would be an attitude that is contrary to the principles of restorative justice, especially respect. Without tender-mindedness, it is not possible to wait for a recovery or repair of damage for both parties. A harsh approach to the parties may lead to an increase in feelings of injustice and problems related to crime rather than recovery and repair.

“Softness is good only if the requirements of justice and love are not sacrificed.” (Sponville, 2015 : 259). The tender-mindedness should never and in no way be a cause and justification for injustice. The tender-mindedness virtue cannot be separated from the justice that exists as "the midpoint" in each virtue. The tender-mindedness that causes injustice is not a virtue but a flaw.

2.4.16. The Virtue of Goodwill

"Goodwill is the virtue that makes the truth value and submits to it. (that is, there is no such thing as value in itself, it is an object of love, respect, will.)" (Sponville, 2015 : 266). “As virtue, it is love or respect for the truth.” (Sponville, 2015 : 263).”The important thing is that one loves the truth more than himself/herself; goodwill, like all virtues, is the opposite of narcissism, blind selfishness, self-slavery; goodwill cuts loose from the "self", so it is good.” (Sponville, 2015: 266).

To embody the fact of love of truth, it may be useful to evaluate Gandhi's approach to truth:

Truth is, I think, the most important principle that encompasses many others. This truth is not only in words, but also in opinion, not only the relative truth in our opinions, but also the Absolute Truth, the Eternal Truth, that is God Himself... I worship God only as Truth. I haven't found him yet, but I'm always looking for him. I'm ready to sacrifice whatever I know for this sake. If this sacrifice asks me for my life, I think I'm ready to give it , too. But as long as I can't comprehend this Absolute Truth, I have to stick to the relative truth in my own opinion. However, this relative

truth should serve as a guiding light, a trench, a shield for me. (Gandhi, 1925/ 1963: 5).

The individual's world view based on his/her love for truth and respect, and the goodwill formed within this framework are reflected in his/her thoughts, words and behaviors, and are generally reflected in his/her whole life and work. "A container will leak what's inside. Good things come from those with a good source, nature and accumulation, the right and the beautiful things emanate true and beautiful words." (Emiroğlu, 2010: 59).

The appearance of goodwill in the individual's inner world is the "conformity of acts and words to inner life or the conformity of inner life to itself." (Sponville, 2015: 263). "Mevlana Celaleddini Rumi emphasizes the necessity to turn what is said only into action and that the word and essence should come together in doing so, and condemns those who do not speak consciously by sincerely believing and living." (Quoted by Emiroğlu, 2010 : 75).

"The goodwill will or should regulate our relationships with others as well as ourselves; it requires the maximum possible truth, the maximum possible authenticity, and consequently the minimum fraud and sneakiness among people as well as within each person." (Sponville, 2015: 264). Sincerity is a view of the goodwill that emerges by keeping away from sneakiness, bad faith and evil. Sincerity is a natural odor that emerges from a well-intentioned person and cannot be imitated. But well-intentioned people can be sincere. "'Sincerity", Rochefoucauld said, "is a heart openness that shows us as we are; it is a love of truth, it is to hate to conceal itself, a desire to compensate for the damage caused by mistakes and even to reduce mistakes by the ability to confess them." (Quoted by Sponville, 2015 : 266).

Sincerity is a necessary and important value for the vomediator. The word has value according to its source, the intention of the sayer and the effect it has aroused. (Emiroglu, 2010: 60). When the parties find the vomediator sincere, they can establish a comfortable, safe and deep relationship with him/her. When sincerity is suspected, this situation creates negativities in the vomediation process, especially lack of confidence. Confidence in the vomediator is the basic condition of his/her existence beyond the restorative process of the vomediation. In this context, there is

a connection between the concepts of goodwill, sincerity and trust. This connection should be created, protected and strengthened by the vomediator.

As a natural reflection of goodwill on human relations, "it also includes the meaning of righteousness and honesty." (Sponville, 2015 : 263). If you don't say good words, a thousand of words are not worth a single word; but if you say good words, a single word has thousands of values (Emiroğlu quoted from Rumi, 2010 : 62). This is what is called sincerity (or truthfulness or frankness...), and it is the opposite of all hypocrisy, fraud, in short, all private and public forms of bad faith. (Sponville, 2015 : 264). In the vomediation process, the truthfulness or frankness of the vomediator is necessary for the parties to trust the vomediator and also for all restorative justice principles. Who is truthful? He/she is the one who loves truth and therefore rejects lies; he/she avoids exaggeration, avoids missing words and making up and forgetting; he/she stands in the middle; between boastfulness and sneakiness, between swashbuckling and strict discretion, between false victory and false modesty. (Sponville quoted from Aristotle, 2015 : 268). The vomediator should always maintain a correct and honest attitude when informing the parties, managing their negotiations and determining the actions. The vomediator's honesty and truthfulness is associated with the goodwill virtue and other virtues.

2.4.17. The Virtue of Sense of Humour

Humour is a ridiculous thing that is purely subjective; in other words, what we produce is a ridiculous thing that depends on our actions, that we never associate objectively, even as a voluntary object, but as a subject. A further explanation is provided, emphasizing the effect that every kind of stimulation of the ridiculous, whether conscious or successful, is called a humour. (Freud quoted from Lipps, 1905 / 1996: 41)

"The word is also spoken in a subtle, humorous way." (Emiroğlu, 2010 : 43). Humour, when used correctly in speech, has a positive impact on people and creates a positive climate in the environment. "According to Mevlana Celaleddini Rumi, "the place of such words is the garden of life." (Emiroğlu quoted from Rumi, 2010 :

43). Since life expresses the spiritual existence of human in mysticism, it is understood that Mevlana put a positive meaning on the humour.

Sponville emphasizes the flaws associated with the absence of this virtue of a person who does not have the virtue of sense of humour and makes the meaning of having the sense of humour clear.

Every seriousness towards himself is guilty. Humour protects us from this and, apart from the pleasure, is therefore valuable. It is impolite to show yourself as important. It's ridiculous to take yourself seriously. The lack of humour is the lack of humility, the lack of light of consciousness, the lack of lightness, the fullness with one's self, the self-deception, to be very harsh and aggressive, so almost always, lack of generosity, softness, compassion. (Sponville, 2015: 283,284)

Aristotle, on the other hand, places the virtue of having sense of humour in a frame by exemplifying and identifying the flaws:

Humorousness is also a midpoint. The humorist is the middle of the person not having a sense of humour and the jester. Just as a whiny person eats little by little while eating while the voracious easily puts everything into the stomach, the difference between a wild and a jester or a foul-mouthed is the same. One doesn't find anything ridiculous or hardly acts like that; the other makes fun of everything. But neither one of them is acting properly. In fact, it is necessary to make a distinction, that is, to act according to the mind: the person behaving in this way has a sense of humour. (Aristotle, 2015: 65). Our proof is the same: If we don't use this word for metaphor, this kind of humorousness, quick wit is a very righteous habit, a praiseworthy one, and its extreme situations should be criticized. (Aristotle, 2015: 65)

"Humour is rightly part of intelligence. This does not prevent seriousness in matters related to another, nor does it interfere with our duties, obligations and responsibilities." (Sponville, 2015 : 284) "We have fun with measured jokes and we get angry with those who cross the line." (Seneca, 2017 : 55). There is a subtle distinction between the virtue of having the sense of humour and the acceptance of humor as a flaw, not a virtue. Aristotle makes this distinction as follows: "as long as the words not painful for anyone who is ridiculed! So the person should like it, because only he/she judges well. (Aristotle, 2015: 65)

With this aspect, it is necessary and important to distinguish between humour and irony. "Irony is rather killer. Irony hurts, humour treats. Irony can kill; humour helps to live. Irony wants to establish domination; humour liberates. Irony is cruel,

humor is forgiving. Irony is humiliating; humor is humble.” (Sponville, 2015: 288, 289). The vomediator should avoid the irony that does not contribute to the vomediation process and the parties.

Like all virtues, humour has a transformative effect.

Humor is not only in the service of humility. It also has value on its own: it turns sorrow into joy (and thus turns hatred into love or forgiveness, says Spinoza) (quoted by Sponville, 2015: 289), turns disappointment into humour, hopelessness into joy... It puts an end to seriousness, but at the same time puts an end to hatred, anger, rage, fanaticism, system spirit, disillusionment, even irony. First laugh at yourself; but without hatred. Or laugh at everything; but only as part of everything and accepting it. (Sponville, 2015: 289)

Freedom produces jokes, and jokes produce freedom (Freud quoted from Richter, 1996: 43). The main function of humour is to change the climate by creating a positive effect in the environment it affects and to liberate the affected person from the idea he/she is obsessed with. "The vomediator should have a sense of humor; the correct use of humour has stress-relieving, relaxing, facilitating, and collaborating effects." (Kekeç, 2014 : 110). We can use humour in the vomediation process in a clever way and in various ways to encourage the parties to perform restorative justice.

In the process of vomediation, it can be considered that the environment should have a sense of humor in order to make the climate positive or to make the negative climate positive and to transform the tension between the vomediator and the parties and between the parties. In addition, the virtue of having the sense of humour can contribute to the balancing of the unrealistic demands of the victim and supporting the suspect/accused in taking responsibility for the crime provided that it is evaluated in a concrete event. The contribution of humor with the vom process can be seen as inviting the parties to come out of the rigid stance that they have locked in and flexibility, adopting and encouraging another approach. .

Humour is no substitute for action and it is a mistake to be insensitive to someone else's suffering (Sponville, 2015: 288). The vomediator's use of humor in good faith and efforts to achieve restorative justice can be considered as a reflection of sensitivity. But on the other hand, it can be considered that humor can be used

wisely and carefully in order to unite the parties, otherwise it may lead to deeper problems and distinctions rather than being useful.

2.4.18. The Virtue of Love

The concept of love is one of the most commonly used concepts, but with uncertainty about its meaning. Perhaps there is no more vague and more complicated word than the word "love". It is used to indicate almost any emotion other than hate and disgust. From loving ice cream to loving a symphony, it encompasses everything. (Fromm, 1995: 120)

Love can be understood in two ways: The first is love, which is mystical in origin; to be free from all evils and to become a trance within an absolute being; the other meaning of love is love among people. (Ülken, 2016: 195, 196). At one point Mevlana Celaleddini Rumi combines these two definitions of love as follows: "Love is one of God's qualities. No matter what and whom the man loves, this love is for the real being (Gölpınarlı quoted from Rumi, 1999 : 208)

Concepts that can define true love are "consciousness" and "conscience"; the conscientious and conscious person will naturally be less selfish, such an approach is the natural result of high internal standards. (Baines, 2004: 187) Love is an act, not a passive feeling; to be "in something", not to "get into something"; in its most general form, the active structure of love can be defined as that love is primarily giving, not taking. (Fromm, 1982 : 30)

Reaching humanity through the path of passion and love means unity and truth. (Ülken, 2017 : 21). He/she who loves the piece alone will not reach the whole; he/she who loves the whole will also love the pieces. (Ülken, 2017 : 22). In this respect, one should not approach love by dividing and disintegrating into individuals and should try to reflect it to life by feeling as a whole. He/she who loves the whole is in unity. (Ülken, 2017 : 21). In one of his poems, "Mevlana Celaleddini Rumi invites people to leave separations, anger, quarrel, and to reach unity by getting rid of dualities (Quoted by Kadir, 2010 : 105). While trying to reach unity by getting rid of all these dualities, human beings act with love and become the carrier of love itself. Gandhi explained how to act with love: "My life is an indivisible whole; all my acts

run together, all my actions arise from my insatiable love for humanity. (Gandhi, 2018 : 10)

“Those who have love keep away from evil; again it purifies the person who is addicted to it.” (Emiroğlu quoted from Rumi, 2010: 248). “Love is not to be enslaved to matter. It is to reach God, that is, eternal unity. It is to love society in individual and to love humanity in human.” (Ülken , 2017 : 21). The vomediator with the virtue of love can maintain his/her affectionate attitude with the parties in any case, but when there is an unacceptable situation, the vomediator does not give up the principles or legislation. Therefore, the vomediator is not obliged to accept the imperfect behavior of the person by being loving and soft. Gandhi shares the roadmap that shows that love for people can be preserved in any situation: "I accept that I will not hate any being in the world with humility; but when evil occurs, I can hate evil, and I do." (Gandhi, 2018: 68, 69)

The virtue of love can be evaluated in two ways as the vomediator's love to the vomediation institution and love to the parties.


"No matter what love does, it does not do by force." (Plato, 2010 : 35). It is very important and valuable for the vomediator to love his/her work. One should live in love and do his/her job well. (Mascaro, 1997 : 114). The vomediator, who loves his/her job, wants to learn his/her work in all aspects with a sincere desire and to deepen in his/her profession. On the other hand, people who love doing their work are in the energy and joy arising from this love; working with such a person pleases people. The virtue of love is one of the main pillars of the vomediator's ability to work on the long term.

The vomediator should love people and be able to approach them with compassion. When human love and love of vom are combined, a solid foundation is created to meet the challenges of the profession.

The mediator should love people. This is a must for the mediator. Because a person, who loves people and wants to make an agreement that will make them happy, meets the prerequisite for success. Otherwise, even the most skilled mediator will surely fail somewhere. (Kekeç quoted from Knebel, Clay, 2014: 111)

On the other hand, the virtue of love is not only related to our relatives, but to all people and living beings. There is a need to revise and define the concept by suspending generally accepted definitions of what love is.

The following quote from the work of *Virtue and Happiness* by psychologist & sociologist Erich Fromm, the author of the classic work named "The Art of Love", will give us an idea of what love really is and how it relates to vomediation.



Although each person has the ability to love, love is one of our most difficult achievements. True love is rooted in creativity, so it is appropriate to call it "creative love." Whether the mother's love for her child, love for humanity, or love between two people, the special nature and essence of love are always the same. (... love is the same when it comes to love for ourselves and others.) Even though the objects of love change, and as a result the intensity and quality of love change, we can say that some basic elements appear in all forms of creative love. These basic elements are interest and care, responsibility, respect and knowledge." (Fromm, 1995 : 121).

For the vomediator, in terms of the elements of love laid out by Fromm, we can say that the vomediator may well love the parties, and even that is a definite necessity.

It can be considered that Fromm's elements of love are associated with mediation as follows: The vomediator should be interested in the parties, the vomediation institution, and in particular the process he/she directs. "Those who rise to love will give existence to humanity." (Ülken , 2017: 20). Therefore, interest in the parties and the relevant event is a natural result of carrying the virtue of love. In the face of such an approach, love will be formed against the vomediator in the parties and at least a positive relationship will be established. "Hearts are conquered not with weapons, but with love and supreme heart." (Spinoza, 1677 / 2018 : 408).

The vomediator should not, first of all, give way to the negative imaginations that may occur in his/her mind related to the process due to reasons such as the absence of vomediation in some cases in the past; he/she should be involved in the process with love by making a new beginning. "Love and fear are opposite". (Rumi, 2007: 83). When the idea of kindness becomes stronger in the mind, our behavior towards people changes, the fear within us decreases and we become more open, so that we create a positive and friendly climate; by doing so, a relationship can be

established in which we receive love or a positive response from the other person. (Lama, Cutler, 2001 : 81)

The vomediator should be able to put himself/herself in the place of the parties, pay attention to the case and concentrate on the process. When dealing with a conflict, he/she should act diligently and selflessly, as if supporting the conflict resolution of his/her favorite people. It is the duty of the vomediator to invite the parties from their positions to address their needs and it requires the vomediator's special attention. This transformation takes place undoubtedly by loving the parties. "Love is the greatest power to change people, even if they are full of anger and hatred". (Lama , 2006 : 118).

In addition, while the vomediator supports the perpetrator to take responsibility for and recover from the crime, he/she may have to take on an educational role and give some advice. It is necessary for the vomediator to carry the virtue of love in terms of this process to be positive. Because "the advice milk boils with love and sincerity." (Rumi , 2007 :118).

On the other hand, the vomediator should generally be interested in the vomediation institution and be willing to increase and renew his/her knowledge. This is by loving vomediation in the most natural and healthy way.

The vomediator should be responsible to the parties, as long as it directs, and to the vomediation institution. This responsibility occurs when the vomediator takes into account the sensitivities of the parties. The responsibility, on the other hand, should manifest itself as the determination by the vomediator to carry out his/her duties "effectively and efficiently" (Vom Reg. LCP a.6/b) under the LCP and Vom Reg. LCP to continue the vomediation process in difficult situations.

The vomediator should be respectful to the parties. "True love and compassion are built on respect for others." (Lama , 2007, 188). As a requirement of respect for the parties, the vomediator should not consider himself/herself superior to the parties and should not be arrogant. According to Rumi, love is the most effective medicine against arrogance. (Quoted by Küçük: 568). Respect is one of the fundamental principles of restorative justice. In fact, within the ethical principles specified in the Vom Reg. LCP, the vomediator is obliged to respect the parties. (Vom Reg. LCP a.6/c) In addition, the obligation of not being prejudiced and not

acting on the guilt of the suspect or accused specified in the Vom Reg. LCP a. 6/ç is related to the carrying of the virtue of love in the vomediator. On the other hand, "the fact that he/she does not discriminate among the parties in terms of race, color, gender, political thought, philosophical belief, religion, sect and similar reasons (Vom Reg.LCP a.6/s) is related to the vomediator's virtue of love."

On the other hand, he/she should be respectful as long as he/she directs and try to make vomediation in a timely manner. Respect for the vomediation institution is also manifested by the diligence in his/her duties and constitutes the general justification of the respect shown in concrete events. Respect is one of the expressions of love with these aspects and appearances. "Feeling deep sensitivity for someone else's feelings is the part of love and kindness." (Lama, Cutler, 2001: 133). It is a necessity and consequence of respect and love to both parties that the vomediator conducts the vomediation process by being sensitive to victim and perpetrator, without neglecting any one. "True compassion is about treating everyone the same way." (Lama, Chan, 2015 : 161)

The vomediator should have information about the parties, process it directs and vomediation. Knowledge of the parties and the directed process requires conducting conflict analysis. This, of course, requires concentration, preparation and effort. After receiving the documents in the file, the vomediator should carefully read and analyze the conflict and deepen this analysis in face-to-face meetings with the parties. Knowledge is the expression of love with these aspects and appearances.

The vomediator should be able to extend the halo of love to all people, not to see differences as separation, but to see people as human.

Up to this stage, we have examined all eighteen virtues identified by Andre Comte Sponville and the context of the vomediator's virtues in the vomediation process. In the next chapter, the data obtained as a result of the fieldwork of the participant opinions about the necessity and virtues and virtuousness of the vomediator in the process will be evaluated.

CHAPTER THREE

FIELD SURVEY REGARDING THE VIRTUES OF VICTIM OFFENDER MEDIATOR IN THE PROCESS MANAGEMENT

In this part of the study, the statistical analysis that determines the judgments of vomediators, suspects/ accused and complainants about the necessity of vomediator to have virtues in vom process is examined on the basis of the questionnaires applied. The aim of our study is to determine the participants judgements on the necessity of vomediators to have virtues in vom process in general and the necessity of having each individual virtue in vom process.

3.1. METHOD

In terms of research level, our study is descriptive in terms of explaining the virtues and associational research in terms of emphasizing the relations between the virtues of vomediator and vom process. It is also an intervention research, because of emphasizing the necessity of virtues and virtuousness of vomediator in vom process.

In Turkey there are 27.534 vomediator ([https://www.hukukihaber.net>turkiye-uzlastirmayi-sevdih431883](https://www.hukukihaber.net/turkiye-uzlastirmayi-sevdih431883), 15.11.2019) as of 2018. In addition 497.775 files were included in the vom process in 2018. ([http://alternatifcozumler.adalet.gov.tr/Resimler/SayfaDokuman/18220191539092018%20uzla%C59Ft%C4%B1rma%20istatistik-%20\(1\).pdf](http://alternatifcozumler.adalet.gov.tr/Resimler/SayfaDokuman/18220191539092018%20uzla%C59Ft%C4%B1rma%20istatistik-%20(1).pdf), 15.11.2019) which may have different numbers complainants and suspects/accused. The individuals in the sample were determined by convenience sampling method. The sample of research is composed of 166 individuals from different provinces, mainly in İzmir. The vomediators were from İzmir, Balıkesir, Antalya, Gaziantep, Bitlis, Muş provinces. The complainants and suspects/defendants were the parties of vomediaiton files of Bayraklı Courthouse in İzmir.

The limitation of our study is that, vomediators participating in the survey are limited to the provinces mentioned and the complainants and suspects/ defendants participating in the survey are parties of the vomediation files of İzmir Bayraklı Courthouse. Another limitation in our research is the difficulty to reach complainant

and suspect/defendants and include in the questionnaire. As a result, complainants and suspects/defendants participation in questionnaire, are fewer than vomediators.

The research questionnaire was developed according to the virtue dimensions in the book named “A Small Treatise on the Great Virtues” of Andre Comte Sponville. The questions in the questionnaire were prepared by the researcher.

In the analysis of the obtained data, techniques such as arithmetic mean, standard deviation, percentage, t-test, and One-Way ANOVA were used. The data collected from individuals during the analysis phase are presented in the tables and figures analyzed with the help of SPSS 24, Excel programs. In the analysis firstly, status are shown regarding to the individuals who took part in the survey. In the following part, the participants' views on the necessity of vomediator to have virtues in the process were analyzed. Finally, in accordance gender, age, roles in the process, viewpoints of the participants about the necessity of vomediator to have virtues in the process were analyzed.

3.2. FINDINGS

The current findings were reached as a result of the research.

3.2.1. Statistics Regarding the Status Differences of the Participants

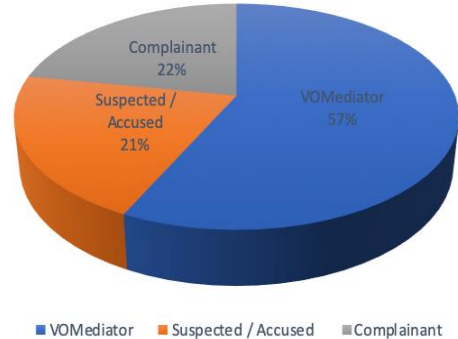
The participants were asked about status differences (gender, ages and roles in vom process) , in the questionnaire and the answers given below.

The participants were asked about their roles in vomediation process, in the questionnaire and the answers were given below. As can be seen from Table 1 and Figure 1, when the responses to the question intended participants' roles in vom process, are examined, it is observed that 56 % of the participants are vomediators, 20.5 % of the participants are suspected / defendants and 21,7 % of the participants are complainants.

Table 1: The Roles of the Participants in Vom Process

Role in Vomediatioon process		
	Frequency	Percentage
VOMediator	93	56
Suspected / Accused	34	20,5
Complainant	36	21,7
Total	163	98,2
Missing data	3	1,8
Sum	166	100

Figure 1: The Roles of the Participants in Vom Process

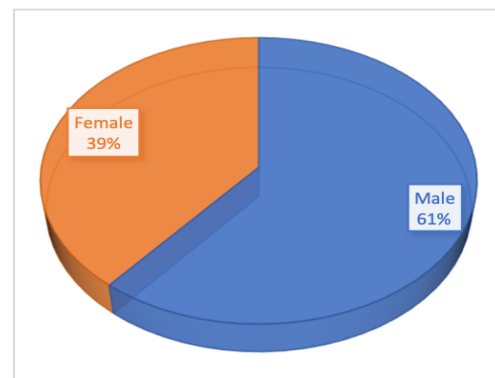


Besides, the participants were asked about their gender, in the questionnaire and the answers were given below. As can be seen from Table 2 and Figure 2, when the responses are examined intended participants' gender in vom process, it is observed that 61 % of the participants are male and 39 % of the participants are female.

Table 2: Gender of Participants

Gender Distribution		
	Frequency	Percentage
Female	63	38
Male	98	59
Total	161	97
Missing data	5	3
Sum	166	100

Figure 2: Gender of Participants



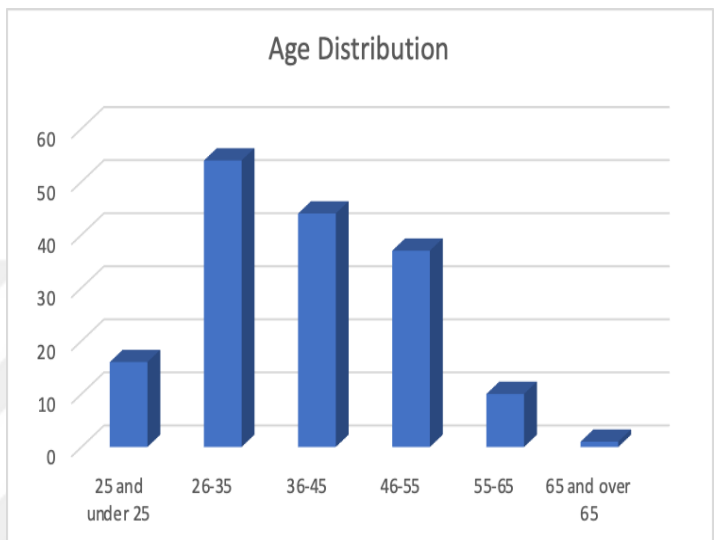
Additionally, the participants were asked about their ages, in the questionnaire and the answers were given below. As can be seen from Table 3 and Figure 3, when the responses are examined intended participants' ages in vom process, it is observed

that 32.5 % of the participants are between 26-35 years of age, 26.5 % of the participants are between 36-45 years old, 22.3 % of the participants are between 46-55 years old, 0,6 % of the participants is 65 year and older.

Table 3: Age Distribution of the Participants

Age Distribution		
	Frequency	Percentage
25 and under 25	16	9,6
26-35	54	32,5
36-45	44	26,5
46-55	37	22,3
55-65	10	6
65 and over 65	1	0,6
Total	162	97,6
Missing data	4	2,4
Sum	166	100

Figure 3: Age Distribution of the Participants



3.2.2. Statistics of the Participants' Judgements about the Necessity of Victim Offender Mediators to have Virtues in Victim Offender Mediation Process.

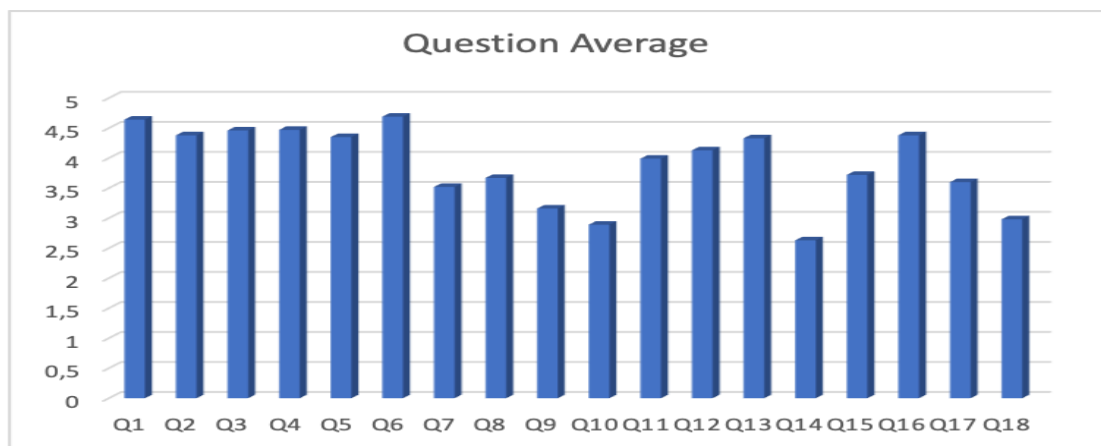
In the book named "A Small Treatise on the Great Virtues" of Andre Comte Sponville which the virtue dimensions of our research are based on, eighteen virtues are determined. In this context, there are eighteen questions regarding the judgement of the participants on the necessity of vomediators to have virtues in vom process. The answers of the respondents are examined holistically and on the basis of questions and are shown in the following tables and figures.

Table 4 and Figure 4 are related with the participants' judgements on the necessity of vomediators to have virtues in vom process. As can be seen Table 4, and Figure 4, when the field survey which was made with vomediators, complainants and suspectes/defantants are evaluated integrally, participants pointed for the necessity of vomediators to have virtues in vom process 3.88 out of 5. It can be said that the participants emphasized the necessity of vomediators to have virtues in vom process, in general.,.

Table 4: The Participants' Judgements on the Necessity of Vomediators to have Virtues in Victim Offender Mediation Process

General Statistics							
Questions	N	average	diversion	Questions	N	Average	diversion
Q1	166	4,64	0,795	Q10	165	2,89	1,546
Q2	165	4,38	0,953	Q11	165	3,99	1,158
Q3	166	4,46	0,878	Q12	164	4,13	1,042
Q4	165	4,47	0,894	Q13	166	4,33	0,896
Q5	163	4,35	0,906	Q14	164	2,63	1,547
Q6	165	4,69	0,831	Q15	163	3,72	1,188
Q7	165	3,52	1,295	Q16	164	4,38	0,942
Q8	166	3,67	1,364	Q17	163	3,60	1,270
Q9	166	3,16	1,501	Q18	161	2,98	1,392

Figure 4: The Participants' Judgements on the Necessity of Vomediators to have Virtues in Victim Offender Mediaiton Process



When the scores in the questionnaires are analyzed in general, the highest positive evaluation statement is related to Q6, "Vomediator should be fair in the vom process. Q1, "Vomediator should be kind in the vom process" follows Q6. In

addition, the other virtues that are scored above 4 point out of 5 point are, Q2, "Vomediator should be loyal in vom process"; Q3, "Vomediator should be moderate in vom process"; Q4, "Vomediator should be prudent in vom process" ; Q5 , "Vomedaitor should be courageous in vom process"; Q12, "Vomediator should be simple in vom process " ; Q13, "Vomedaitor should be tolerant in vom process" ; Q16, "Vomediator should be well-intentioned in vom process" In general, the participants expect vomediator to be, kind, loyal, moderate, prudent, courageous, fair, simple, tolerant, well-intentioned in vom process with an average scoring of more than 4 point. The highest negative evaluation statements is related to Q14, "Vomediator should be pure in the vom process". Q10 "Vomediator should be grateful in vom process" and Q18 "Vomediator should be full of love in vom process" follow Q14.

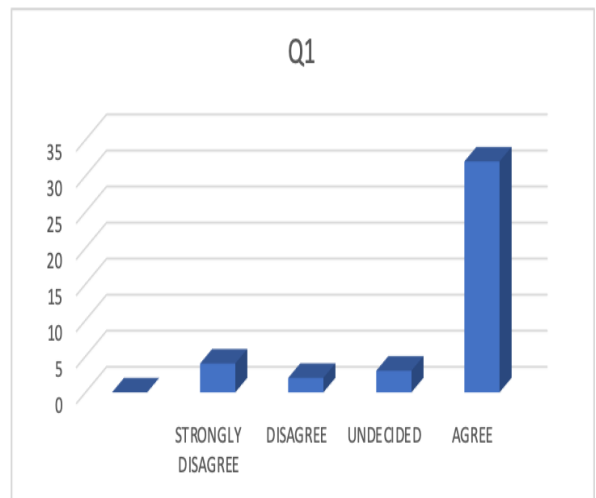
The evaluations of the participants in the questionnaires on the necessity of the vomediators to have virtues in vom process are shown in the tables and figures below. Each statement were developed according to the virtue dimensions in the book named "A Small Treatise on the Great Virtues" of Andre Comte Sponville. In this context, in order to assess the necessity of vomediators to have virtues in vom process, the eighteen virtues mentioned in Sponville's work are evaluated below.

Q1: Vomediator should be kind in vom process.

As can be seen Table 5 and Figure 5 below, when distribution of the participants on the necessity of vomediators being kind in vom process, is examined, it is observed that 75,3 % of the participants are strongly agree, 19,3 % of the participants are agree, 1,8 % of the participants are undecided, 1,2 % of the participants are disagree and 2,4 % of the participants are strongly disagree with the statement. It is observed that the number of positive responses significantly exceeds the negative responses. Moreover "Vomediator should be kind in vom process" statement is observed as the second highest scored statement by the participants.

Table 5: Vomediator should be kind

Q1		
	FREQUENCY	PERCENTAGE (%)
STRONGLY DISAGREE	4	2,4
DISAGREE	2	1,2
UNDECIDED	3	1,8
AGREE	32	19,3
STRONGLY AGREE	125	75,3
SUM	166	100

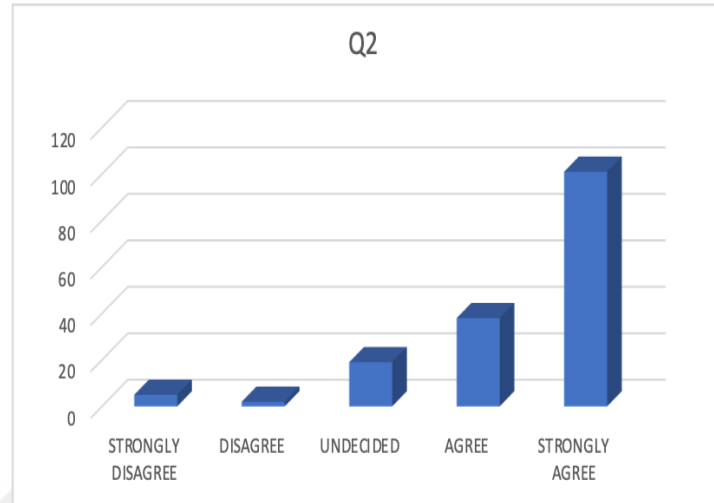
Figure 5: Vomediator should be kind

Q2: Vomediator should be loyal in vom process.

As can be seen Table 6 and Figure 6 below, when distribution of the participants on the necessity of vomediators being loyal in vom process, is examined, it is observed that 61,2 % of the participants are strongly agree, 23 % of the participants are agree, 11,5 % of the participants are undecided, 1,2 % of the participants are disagree and 3 % of the participants are strongly disagree with the statement. It is observed that the number of positive responses significantly exceeds the negative responses.

Table 6: Vomediator should be loyal

Q2		
	FREQUENCY	PERCENTAGE (%)
STRONGLY DISAGREE	5	3
DISAGREE	2	1,2
UNDECIDED	19	11,5
AGREE	38	23
STRONGLY AGREE	101	61,2
SUM	165	100

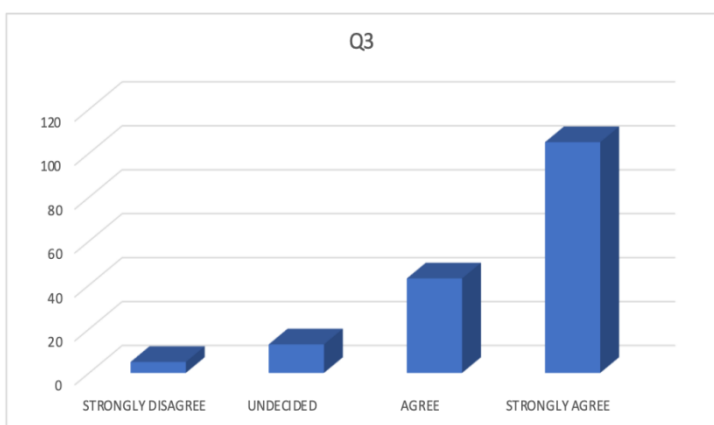
Figure 6: Vomediator should be loyal

Q3: Vomediator should be moderate in vom process.

As can be seen Table 7 and Figure 7 below, when distribution of the participants on the necessity of vomediators being moderate in vom process, is examined, it is observed that 63,3 % of the participants are strongly agree, 25,9 % of the participants are agree, 7,8 % of the participants are undecided and 3 % of the participants are strongly disagree with the statment. It is observed that the number of positive responses significantly exceeds the negative responses.

Table 7: Vomediator should be moderate

Q3		
	FREQUENCY	PERCENTAGE %
STRONGLY DISAGREE	5	3
UNDECIDED	13	7,8
AGREE	43	25,9
STRONGLY AGREE	105	63,3
SUM	166	100

Figure 7: Vomediator should be moderate

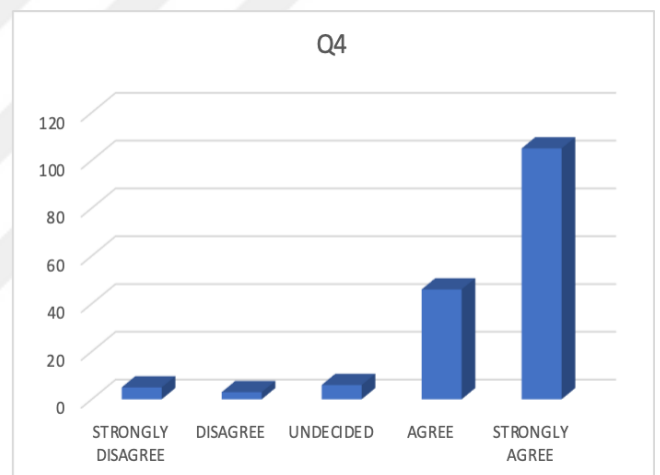
Q4: Vomediator should be prudent in vom process.

As can be seen Table 8 and Figure 8 below, when distribution of the participants on the necessity of vomediators being prudent in vom process, is examined, it is observed that 61,2 % of the participants are strongly agree, 27,9 % of the participants are agree, 3,6 % of the participants are undecided, 1,8 % of the participants are disagree and 3 % of the participants are strongly disagree with the statement. It is observed that the number of positive responses significantly exceeds the negative responses.

Table 8: Vomediator should be prudent

Figure 8: Vomediator should be prudent

Q4		
	FREQUENCY	PERCENTAGE %
STRONGLY DISAGREE	5	3
DISAGREE	3	1,8
UNDECIDED	6	3,6
AGREE	46	27,9
STRONGLY AGREE	105	63,6
SUM	165	100

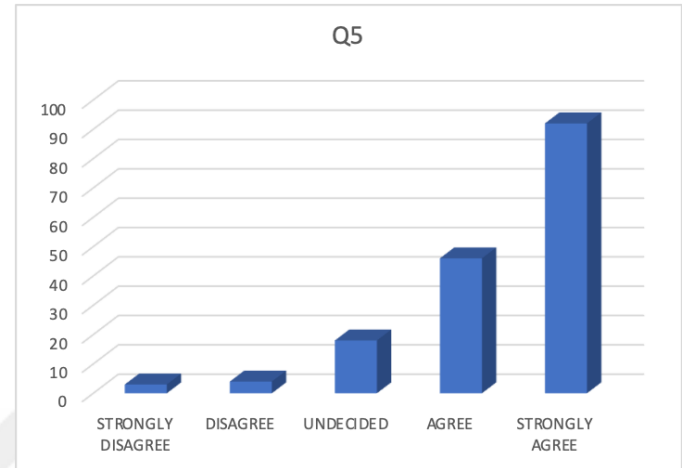


Q5: Vomediator should be courageous in vom process.

As can be seen Table 9 and Figure 9 below, when distribution of the participants on the necessity of vomediators being courageous in vom process, is examined, it is observed that 56,4 % of the participants are strongly agree, 28,2 % of the participants are agree, 11 % participants are undecided, 2,5 % of the participants are disagree and 1,8 % of the participants are strongly disagree with the statement. It is observed that the number of positive responses significantly exceeds the negative responses.

Table 9: Vomediator should be courageous

Q5		
	FREQUENCY	PERCENTAGE %
STRONGLY DISAGREE	3	1,8
DISAGREE	4	2,5
UNDECIDED	18	11
AGREE	46	28,2
STRONGLY AGREE	92	56,4
SUM	163	100



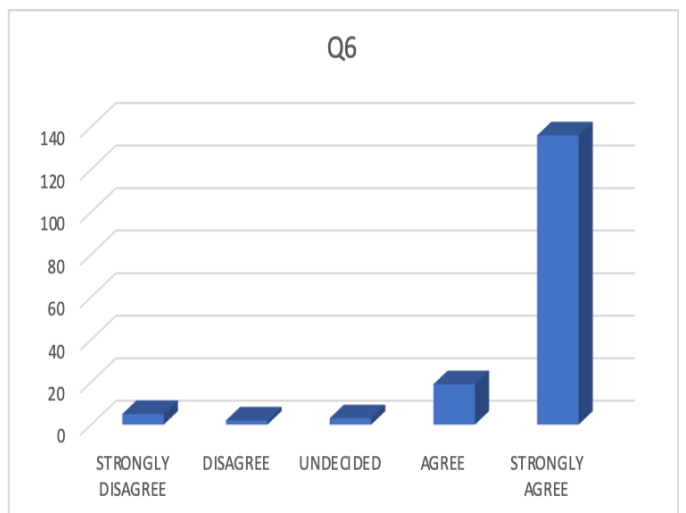
Q6: Vomediator should be fair in vom process.

As can be seen Table 10 and Figure 10 below, when distribution of the participants on the necessity of vomediators being fair in vom process, is examined, it is observed that 82,4 % of the participants are strongly agree 11,5 % of the participants are agree, 1,8 % of the participants are undecided, 1,2 % of the participants are disagree and 3 % of the participants are strongly disagree with the statement. It is observed that the number of positive responses significantly exceeds the negative responses.

Table 10: Vomediator should be fair

Q6		
	FREQUENCY	PERCENTAGE %
STRONGLY DISAGREE	5	3
DISAGREE	2	1,2
UNDECIDED	3	1,8
AGREE	19	11,5
STRONGLY AGREE	136	82,4
SUM	165	100

Figure 10: Vomediator should be fair



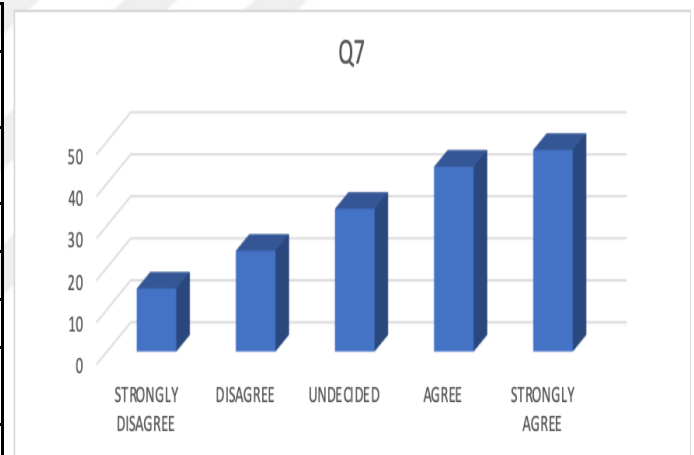
Q7: Vomediator should be generous in vom process.

As can be seen Table 11 and Figure 11 below, when distribution of the participants on the necessity of vomediators being generous in vom process, is examined , it is observed that 29,1 % of the participants are strongly agree, 26,7 % of the participants are agree, 20,6 % of the participants are undecided, 14,5 % of the participants are disagree and 9,1 % of the participants are strongly disagree with the statement. It is observed that the number of positive responses significantly exceeds the negative responses. On the other hand, a significant number of the participants are undecided about the necessity of vomediator to have the virtue of generosity.

Table 11: Vomediator should be generous

Q7		
	FREQUENCY	PERCENTAGE %
STRONGLY DISAGREE	15	9,1
DISAGREE	24	14,5
UNDECIDED	34	20,6
AGREE	44	26,7
STRONGLY AGREE	48	29,1
SUM	165	100

Figure 11: Vomediator should be generous



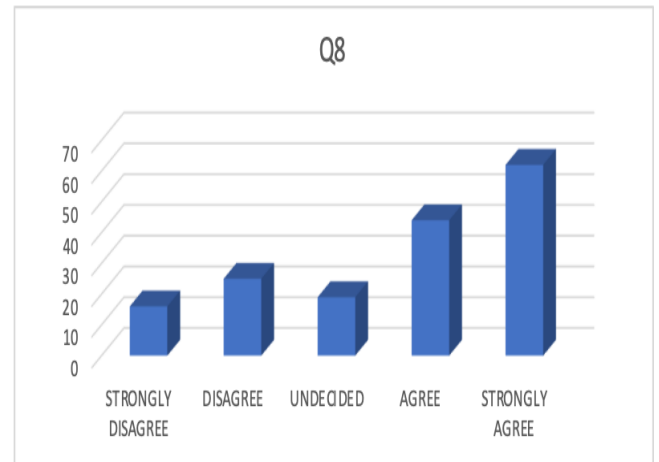
Q8: Vomediator should be compassionate in vom process.

As can be seen Table 12 and Figure 12 below, when distribution of the participants on the necessity of vomediators being compassionate in vom process, is examined, it is observed that 37,3 % of the participants are strongly agree, 26,5 % of the participants are agree, 11,4 % of the participants are undecided, 15,1 % of the participants are disagree and 9,6 % of the participants are strongly disagree. It is also observed that the number of positive responses significantly exceeds the negative responses.

Table 12: Vomediator should be compassionate

Q8		
	FREQUENCY	PERCENTAGE %
STRONGLY DISAGREE	16	9,6
DISAGREE	25	15,1
UNDECIDED	19	11,4
AGREE	44	26,5
STRONGLY AGREE	62	37,3
SUM	166	100

Figure 12: Vomediator should be compassionate



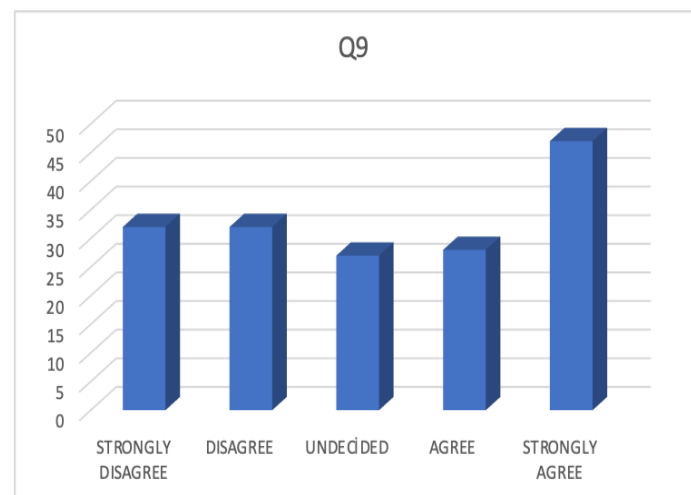
Q9: Vomediator should be forgiving in vom process.

As can be seen Table 13 and Figure 13 below, when distribution of the participants on the necessity of vomediators being forgiving in vom process, is examined, it is observed that 28,3% of the participants are strongly agree, 16,9 % of the participants are agree, 16,3 % of the participants are undecided, 19,3 % of the participants are disagree and 19,3 % of the participants are strongly disagree It is observed that the number of positive responses exceeds the negative responses. It can be said that, there is a proportional distribution in the responses of the participants regarding the necessity of vomediator being forgiving in vom process.

Table 13: Vomediator should be forgiving

Q9		
	FREQUENCY	PERCENTAGE (%)
STRONGLY DISAGREE	32	19,3
DISAGREE	32	19,3
UNDECIDED	27	16,3
AGREE	28	16,9
STRONGLY AGREE	47	28,3
TOTAL	166	100

Figure 13: Vomediator should be forgiving



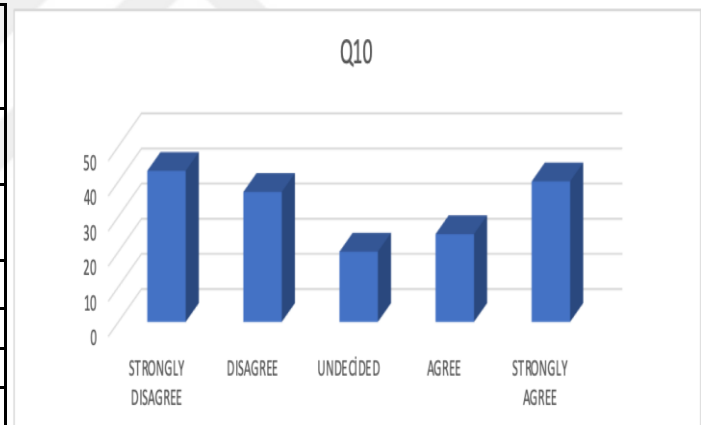
Q10: Vomediator should be grateful in vom process.

As can be seen Table 14 and Figure 14 below, when distribution of the participants on the necessity of vomediators being grateful in vom process, is examined, it is observed that 24,2 % of the participants are strongly agree, 15,2 % of the participants are agree, 12,1 % of the participants are undecided, 22,4 % of the participants are disagree, 26,1 % of the participants are strongly disagree with the statement. It can be said, the distribution of responses of participants regarding the necessity of vomediator being gratitude in the process are bipolar. In total, 48,5 % of the participant have negative evaluations, 39,4 % have positive evaluations about the statement. In conclusion, it is observed that the number of negative responses exceeds the positive responses.

Table 14: Vomediator should be grateful

Q10		
	FREQUENCY	PERCENTAGE (%)
STRONGLY DISAGREE	43	26,1
DISAGREE	37	22,4
UNDECIDED	20	12,1
AGREE	25	15,2
STRONGLY AGREE	40	24,2
TOTAL	165	100

Figure 14: Vomediator should be grateful



Q11: Vomediator should be modest in vom process.

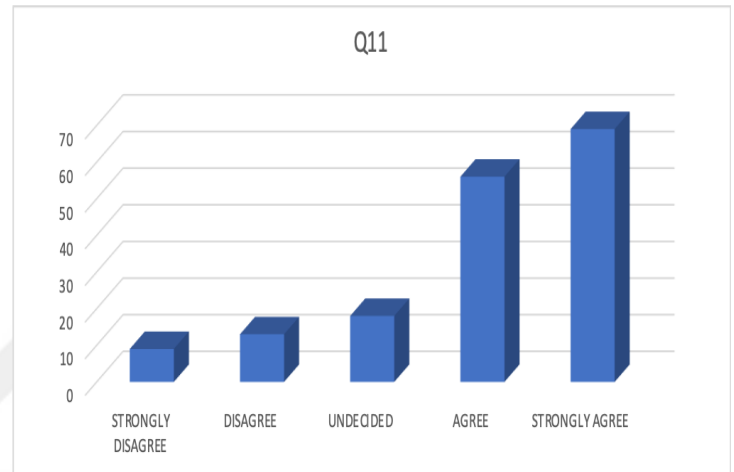
As can be seen Table 15 and Figure 15 below, when distribution of the participants on the necessity of vomediators being modest in vom process, is examined, it is observed that 41,8 % of the participants are strongly agree, 33,9 % of the participants are agree, 10,9 % of the participants are undecided, 7,9 % of the participants are disagree and 5,5 % of the participants are strongly disagree with the

statement. It is observed that the number of positive responses significantly exceeds the negative responses.

Table 15: Vomediator should be modest

Q11		
	FREQUENCY	PERCENTAGE (%)
STRONGLY DISAGREE	9	5,5
DISAGREE	13	7,9
UNDECIDED	18	10,9
AGREE	56	33,9
STRONGLY AGREE	69	41,8
TOTAL	165	100

Figure 15: Vomediator should be modest

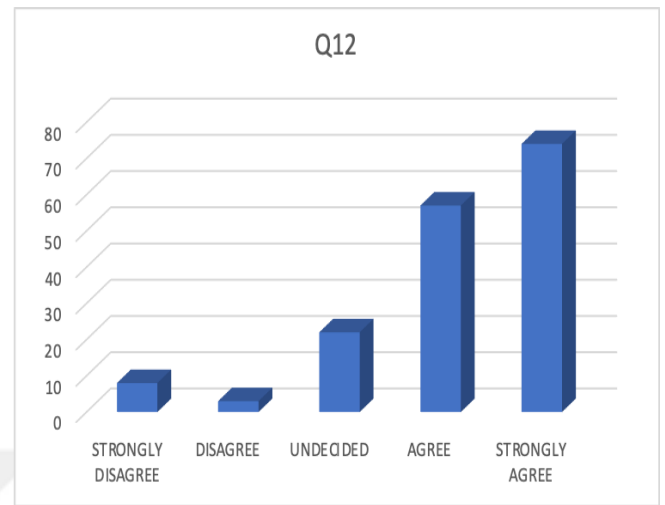


Q12: Vomediator should be simple in vom process.

As can be seen Table 16 and Figure 16 below, when distribution of the participants on the necessity of vomediators being simple in vom process, is examined , it is observed that 45,1 % of the participants are strongly agree, 34,8 % of the participants are agree, 13,4 % participants are undecided, 1,8 % of the participants are disagree and 4,9 % of the participants are strongly disagree with the statement. It is observed that the number of positive responses significantly exceeds the negative responses.

Table 16: Vomediator should be simple

Q12		
	FREQUENCY	PERCENTAGE %
STRONGLY DISAGREE	8	4,9
DISAGREE	3	1,8
UNDECIDED	22	13,4
AGREE	57	34,8
STRONGLY AGREE	74	45,1
TOTAL	164	100

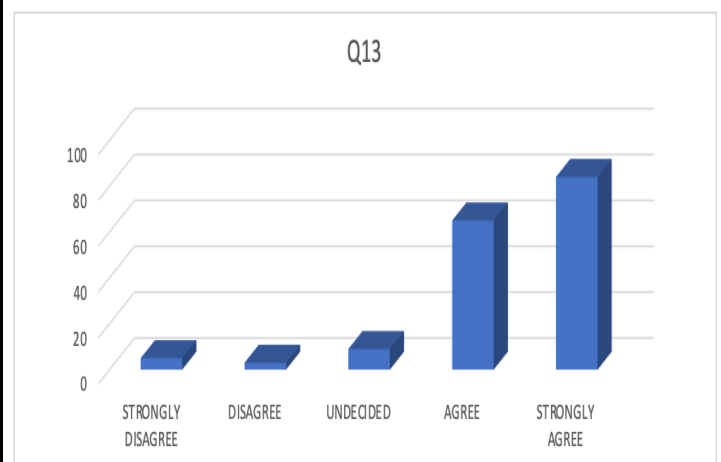
Figure 16: Vomediator should be simple

Q13: Vomediator should be tolerant in vom process.

As can be seen Table 17 and Figure 17 below, when distribution of the participants on the necessity of vomediators being tolerant in vom process, is examined, it is observed that 50,6 % of the participants are strongly agree, 39,2 % of the participants are agree, 5,4 % participants are undecided, 1,8 % participants are disagree and 3 % of the participants are strongly disagree with the statement. It is observed that the number of positive responses significantly exceeds the negative responses.

Table 17: Vomediator should be tolerant

Q13		
	FREQUENCY	PERCENTAGE %
STRONGLY DISAGREE	5	3
DISAGREE	3	1,8
UNDECIDED	9	5,4
AGREE	65	39,2
STRONGLY AGREE	84	50,6
TOTAL	166	100

Figure 17: Vomediator should be tolerant

Q14: Vomediator should be pure in vom process.

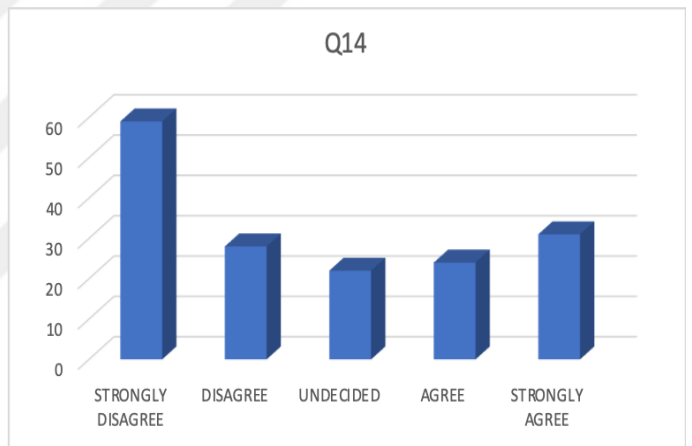
As can be seen Table 18 and Figure 18 below, when distribution of the participants on the necessity of vomediators being pure in vom process, is examined , it is observed that 18,9 % of the participants are strongly agree, 14,6 % of the participants are agree, 13,4 % of the participants are undecided, 17,1 % of the participants are disagree and 36 % of the participants are strongly disagree.

It is observed that the number of negative responses significantly exceeds the positive responses. In total, 53,1 % of the participant have negative evaluations, 33,5 % have positive evaluations about the statement.

Table 18: Vomediator should be pure

Q14		
	FREQUENCY	PERCENTAGE %
STRONGLY DISAGREE	59	36
DISAGREE	28	17,1
UNDECIDED	22	13,4
AGREE	24	14,6
STRONGLY AGREE	31	18,9
TOTAL	164	100

Figure 18: Vomediator should be pure



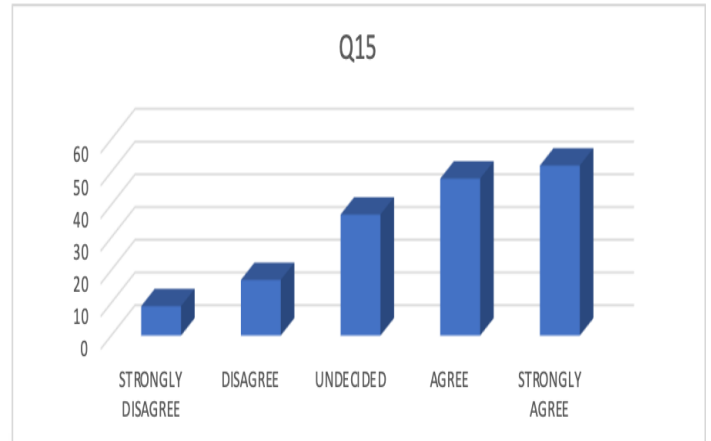
Q15: Vomediator should be tender minded in vom process.

As can be seen Table 19 and Figure 19 below, when distribution of the participants on the necessity of vomediators being tender minded in vom process, is examined, it is observed that 31,3 % of the participants are strongly agree, 29,4 % of the participants are agree, 22,7 % of the participants are undecided, 10,4 % of the participants are disagree and 5,5 % of the participants are strongly disagree with the statement. It is observed that the number of positive responses significantly exceeds the negative responses. On the other hand, a significant number of the participants are undecided about the necessity of vomediator being tender minded.

Table 19: Vomediator should be tender minded

Q15		
	FREQUENCY	PERCENTAGE %
STRONGLY DISAGREE	9	5,5
DISAGREE	17	10,4
UNDECIDED	37	22,7
AGREE	48	29,4
STRONGLY AGREE	52	31,3
TOTAL	163	100

Figure 19: Vomediator should be tender minded



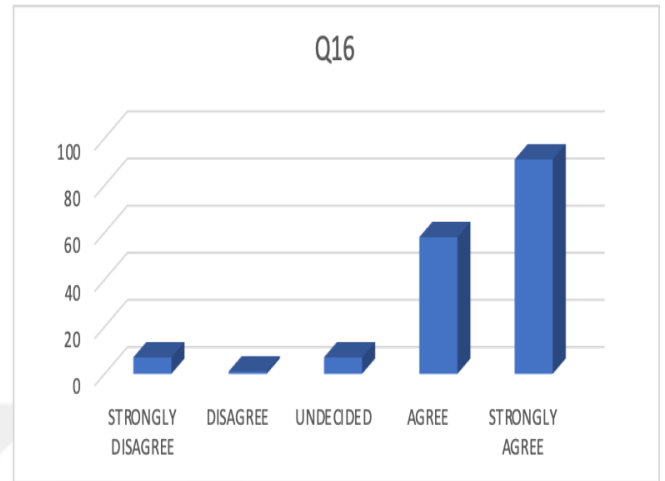
Q16: Vomediator should be well-intentioned in vom process.

As can be seen Table 20 and Figure 20 below, when distribution of the participants on the necessity of vomediators being well-intentioned in vom process, is examined , it is observed that 54,9 % of the participants are strongly agree, 35,4 % participants are agree, 4,3 % participants are undecided, 0,6 % of the participant is disagree and 4,3 % participants are strongly disagree with the statement. It is observed that the number of positive responses significantly exceeds the negative responses.

Table 20: Vomediator should be well-intentioned

Q16		
	FREQUENCY	PERCENTAGE %
STRONGLY DISAGREE	7	4,3
DISAGREE	1	0,6
UNDECIDED	7	4,3
AGREE	58	35,4
STRONGLY AGREE	91	54,9
TOTAL	164	100

Figure 20: Vomediator should be well-intentioned



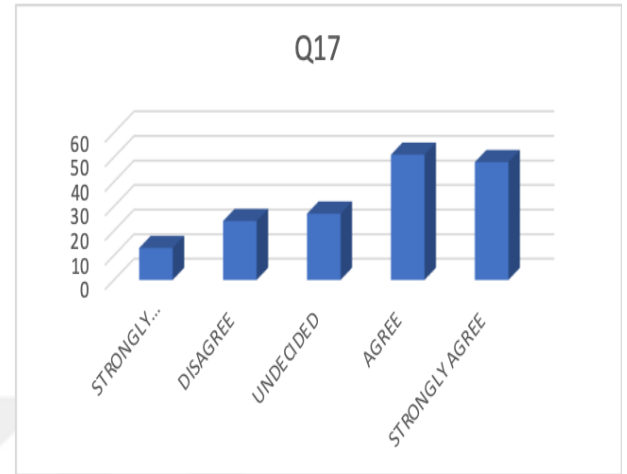
Q17: Vomediator should have the power of humor in vom process.

As can be seen Table 21 and Figure 21 below, when distribution of the participants on the necessity of vomediators have sense of humour in vom process, is examined , it is observed that 29,4 % of the participants are strongly agree, 31,3 % participants are agree, 16,6 % participants are undecided, 14,7 % of the participants are disagree and 8 % participants are strongly disagree with the statement. It is observed that the number of positive responses significantly exceeds the negative responses.

Table 21: Vomediator should have sense of honour

Q17		
	FREQUENCY	PERCENTAGE %
STRONGLY DISAGREE	13	8
DISAGREE	24	14,7
UNDECIDED	27	16,6
AGREE	51	31,3
STRONGLY AGREE	48	29,4
TOTAL	163	100

Figure 21: Vomediator should have sense of honour



Q18: Vomediator should be full of love in vom process.

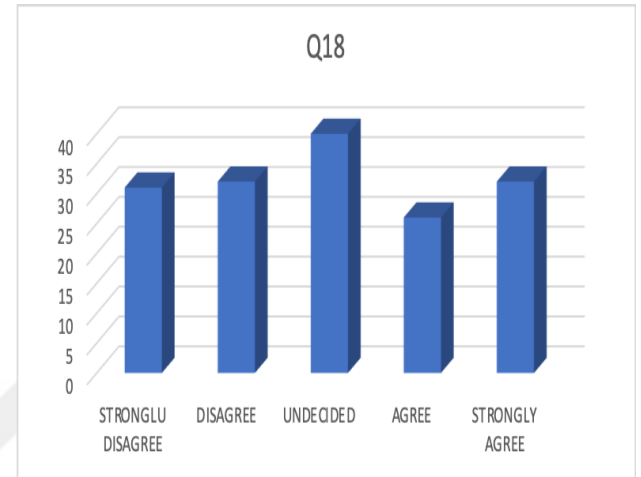
As can be seen Table 22 and Figure 22 below, when distribution of the participants on the necessity of vomediators being full of love in vom process, is examined , it is observed that 19,9 % of the participants are strongly agree, 16,1 % of the participants are agree, 24,8 % of the participants are undecided , 19,9 % of the participants are disagree and 19,3 % of the participants are strongly disagree with the statement.

The distribution of the participants' judgments about the necessity of vomediator being full of love, involves a significant indecision. In all options, "undecided" response is the most common one with the percentage 24,8 %. On the other hand, the number of negative responses and positive responses are quite close. It can be said, the distribution of responses of participants regarding the necessity of vomediators being full of love in vom process are bipolar. In total, 39,5 % of the participant have negative evaluations, 36 % have positive evaluations about the statement. In conclusion, it is observed that the number of negative responses exceeds the positive responses.

Table 22: Vomediator should be full of love

Q18		
	FREQUENCY	PERCENTAGE %
STRONGLY DISAGREE	31	19,3
DISAGREE	32	19,9
UNDECIDED	40	24,8
AGREE	26	16,1
STRONGLY AGREE	32	19,9
TOTAL	161	100

Figure 22: Vomediator should be full of love



In the following section, the analysis on the necessity of vomediators to have virtues in vom process will be continued in the frame of questions about status differences in the questionnaire.

3.2.3. Statistics on the Participants' Viewpoints according to Status Differences, about the Necessity of Victim Offender Mediator to have Virtues in Victim Offender Mediation Process

In this part of the analysis, it will be tried to assess whether participants' viewpoints regarding to the necessity of vomediators to have virtues in vom process vary according to age, gender and role in the process.

In the analysis, the comparison of the mean scores of the individuals who participated in the survey on the necessity of vomediators to have virtues in vom process in different status (age, gender, role) is given. The comparison scale was determined as the average parameter for the questionnaire using Likert scale. Independent groups t-test and variance analysis ANOVA tests were used in the mean comparison. T-test was used to investigate the difference between the two sample groups in terms of means. Variance analysis was used to investigate the difference between the means of more than two groups.

Analyzes are made according to whether the p value is less than the significance level (alpha). If the p value is less than significance level (alpha) 0.05, there is a significant difference between the averages. In other words, it can be stated that the relevant variable (gender, role in vom process, age) affects the participants' responses to the questions. The alpha value of 0.05 indicates the margin of error of the test. In other words, the test offers a 95% confidence level.

3.2.3.1. Statistics on the participants' viewpoints according to gender differences, about the necessity of victim offender mediator to have virtues in victim offender mediation process

The independent groups t-test was used to determine whether the gender of the participants was effective in their perspectives on the necessity of vomediators to have virtues. According to the results of independet groups t-test, it is found out that women and men participants are different in assessing to the necessity of vomediators to have virtues in vom process. The P-value(0,047) is less than the error level alpha:0.05. When the averages of the groups are examined, the value of women is 3,702 while it is 3,925 for men. The difference is statistically significant. The mean scores of the responses of the men get higher than women mean scores on the necessity of vomediators to have virtues in vom process.

Table 23: T Test Regarding Viewpoint of the Participants according to Gender Difference about the Necessity of the Necessity of Vomediator to have Virtues

Test According to Gender variability						
	N	Average	Standard deviation	T	Sd	p-value
Female	63	3,7028	0,70004	-1,998	159	0,047
Male	98	3,9252	0,68233			

3.2.3.2. Statistics on the participants' viewpoints according to age differences, about the necessity of victim offender mediator to have virtues in victim offender mediation process

The ANOVA method, which is a one-way analysis of variance, was used to determine whether the participants' views on the necessity of vomediator to have virtues differed according to their age. In the comparison tests where there are more than two groups, if there is a significant difference in the result of this test which examines the significance of the difference between the means, it is analyzed in which group the difference is required by post- hoc test procedures. Participants were divided into six different age groups and categorized. The results shows that these different categories are not effective in responding to the questionnaire. As a result of the analysis, p value is greater than 0.05 (0.461).

Table 24: Viewpoint of the Participants according to Age Difference about the Necessity of Vomediator to have Virtues

Anova Test results					
	Sum of squares	Sd	Mean of squares	F	p-value
Intergroup	2,290	5	0,458	0,934	0,461
In groups	76,492	156	0,490		
Total	78,782	161			

In other words, in terms of the necessity of vomediator to have virtues in vom process, mean scores of age groups are not significantly different from each other. It can be said that the fact that the participants are in different age groups do not have a significant effect on the assessment of vomediator's necessity to have virtues in the process.

The average scores of the answers given by the vomediator, suspect / accused and complainant for each question related to the necessity of vomediators to have virtues in vom process are given in the tables and figures below.

3.2.3.3. Statistics on the participants' viewpoints according to role differences, about the necessity of victim offender mediators to have virtues in victim offender mediation process

The ANOVA method, which is a one-way analysis of variance, was used to determine whether the participants' views on the necessity of vomediators to have virtues in the process differed significantly according to their roles in vom process. The participants are divided into three groups; vomediator, suspect / accused and complainant. It has been shown that this difference of role is effective in responding to the questionnaire. As a result of the analysis, p value was less than 0.05 (0.005).

Table 25: Viewpoint of the Participants according to Role Difference to the Necessity of Vomediator to have Virtues in Victim Offender Mediation Process

	Sum of squares	Sd	Mean of squares	F	p-value
Intergroup	5,151	2	2,576	5,581	0,005
In groups	73,838	160	0,461		
Total	78,989	162			

In other words, the average score of at least one of the complainant, vomediator and suspect/ accused groups is significantly different from the others in terms of the necessity of vomediators to have virtues in vom process.

As a result of this test, which analyzes the significance of the difference between the averages of more than two groups, in case of a significant difference, it is analyzed which group is required according to post-hoc test procedures.

According to the results of the analysis above, Tukey HSD test was used to find this significantly different group. The results are shown in the table below.

Table 26: Tukey HSD Test Regarding the Viewpoint of the Participants according to Role Difference on the Necessity of Vomediator to have Virtues

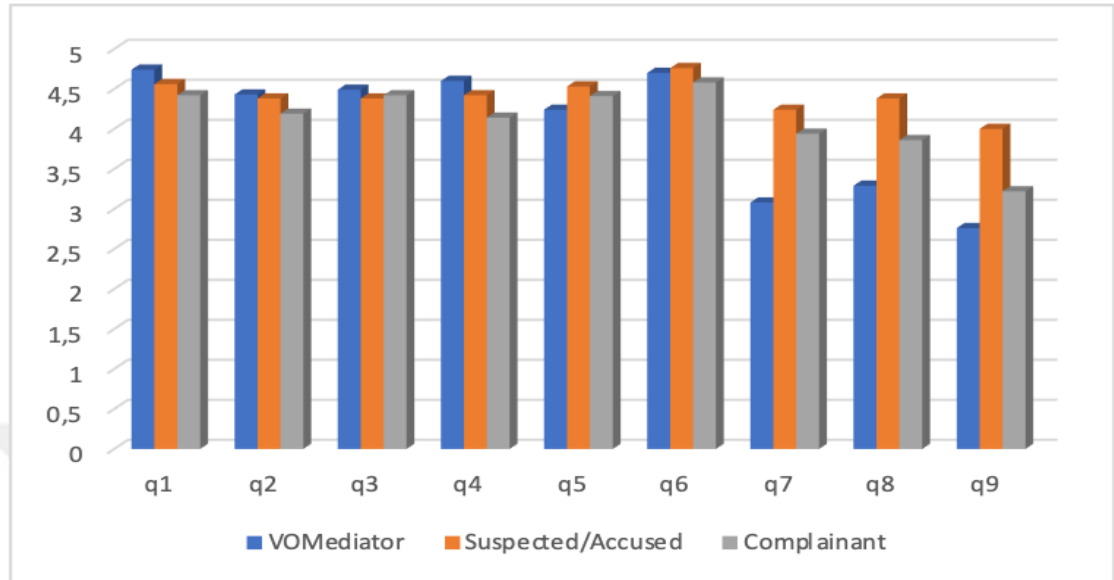
Tukey HSD Test				
(I) title	(j) title	Average difference (I-J)	S.mistake	p-value
Vomediator	Suspected / Accused	-,45469*	0,13614	0,003
	Complainant	-0,10992	0,13335	0,689
Suspected / Accused	Vomediator	,45469*	0,13614	0,003
	Complainant	0,34477	0,16246	0,089
Complainant	Vomediator	0,10992	0,13335	0,689
	Suspected/Accused	-0,34477	0,16246	0,089
* The mean difference is significant at the 0.05 level.				

When the results of the Tukey multiple comparison test are examined, the difference between, the scores of the vomediator and complainant and the scores of complainant and suspects/accused participants are not significant, whereas the difference between vomediator and suspect / accused participants are significantly different. Participants who are involved in the vomediation process as suspect / accused gave significantly more points than vomediators, on the necessity of vomediators to have virtues in process.

Table 27(a): Average Point of the Participants according to Role Difference on Necessity of Victim Offender Mediator to have Virtues in Victim Offender Mediation Process.

Title	q1	q2	q3	q4	q5	q6	q7	q8	q9
VOMediator	4,74	4,43	4,49	4,60	4,24	4,70	3,08	3,29	2,76
Suspected/Accused	4,56	4,38	4,38	4,42	4,53	4,76	4,24	4,38	4,00
Complainant	4,42	4,19	4,42	4,14	4,41	4,58	3,94	3,86	3,22
Total	4,63	4,37	4,45	4,46	4,34	4,69	3,51	3,64	3,12

Figure 23(a): Average Point of the Participants according to Role
Difference on Necessity of Victim Offender Mediator to have Virtues

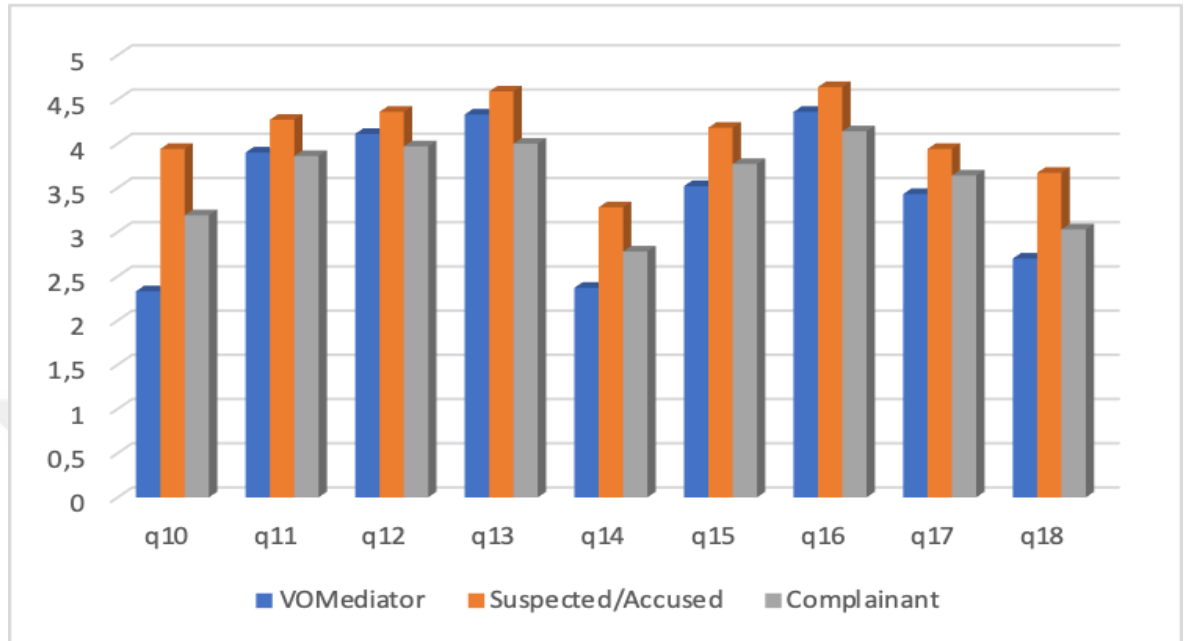


When the highest points about the necessity of virtues of vomediators according to role differences are examined, vomediator participants highest score for being courtesy with 4.74, suspect/accused participants highest score for being fair with 4.56, and complainant participants highest score for being fair with 4.42 respectively.

Table 27(b): Average Point of the Participants according to Role
Difference on Necessity Victim Offender Mediator to have Virtues

Title	q10	q11	q12	q13	q14	q15	q16	q17	q18
VOMediator	2,33	3,90	4,11	4,33	2,37	3,52	4,36	3,43	2,70
Suspected	3,94	4,27	4,36	4,59	3,28	4,18	4,64	3,94	3,67
Complainant	3,19	3,86	3,97	4,00	2,78	3,77	4,14	3,64	3,03
Total	2,85	3,97	4,13	4,31	2,64	3,71	4,37	3,58	2,97

Figure 23(b): Average Point of the Participants according to Role
Difference on Necessity of Victim Offender Mediator to have Virtues



Most significant difference about participants evaluations according role difference is the virtue of being grateful. The highest scores on the necessity of vomediators being grateful are given by the suspects/accused with 3.94 and the lowest scores are given by the vomediators with 2.33.

CONCLUSION AND RECOMMENDATION

When the field survey which is made with vomediators, complainants and suspectes/defantants are evaluated integrally, participants' points for the virtues of vomediators in the process of vom is 3.88 out of 5. This scoring displays an important emphasis on requirement of vomediators to have virtues in vom process. Since virtuousness is related to have virtues, the participants generally emphasized on the virtuousness of the vomediator with high scoring.

In general, the participants expect vomediator to be, kind, loyal, moderate, prudent, courageous, fair, simple, tolerant, well-intentioned in vom process with an average scoring of more than 4 point. Besides, the participants underlined that vomediator should be generous, compassionate, modest, tender minded and should have sense of humour in vom process with an average scoring of more than 3. 5 point.

People who agrees that the vomediator should be forgiving is more than the ones who disagree. Within the eighteen virtues defined in our survey; it was observed that the positive evaluations regarding fifteen virtues were higher than the negative evaluations.

On the other hand, it was observed that the negative evaluations regarding three virtues were higher than the positive evaluations. the participants who disagree that the necessity of vomediator, being pure, grateful and full of love are more than the ones who agree.

The virtue "being pure" is perceived as a deficiency rather than a virtue, can be due to the attitudes of the negative participants. From the aspect of gratitude can be due to the attitudes of the negative participants. Finally love is also a subject of discussion on the questions that what love is and whom love involves. That is to say, the judgement that vomediator should be full of love within the vomediation process, could make a division in survey participants.

When the virtues are evaluated grounding on the participants in general, most emphasized virtue is justice with point 4,69 over 5. As the virtues "justice" is a full virtue (Aristotales, 2016 : 99) fundamentally, the emphasis on the virtue justice carries us to the conclusion that vomediator should have all virtues. Second most

underlined virtue by the attendants is courtesy. The point of the virtues is 4.63 and it is very close to virtue justice.

The meaning and the necessity of the fact that the vomediator should have virtues of courtesy and justice indirectly are prominent in LCP is supported by these statistics. In our study, vomediation participants, except for the virtues stated in Vom Reg. LCP, the vomediator should have many other virtues in vom process. For example, the virtue of temperance is the third most emphasized virtue (4.47) and the virtue of prudence is the fourth virtue right after (4.46). We recommend that the necessity of virtues within the process of vom which is resulted by the participants of vom to be reflected on Turkish Vom Legislation. This could be possible if the legislation itself will be modified according to the unity and range of Vom Legislation and ethic principles.

The individuals' who participated in the survey, viewpoints regarding the virtues of vomediators vary according to their genders in a significant manner. Men scored the virtues higher than women. Simone de Beauvoir stated that value of usefulness which is not essential is determinative in the life of a housewife and she greets herself when she is useful for her family or relatives. That is to say, usefulness has a higher position than rightness, beauty and freedom which are essential values. (Beauvoir,1978:17,18) Besides that, according to Beauvoir, woman not only bounds to bodily form of earth, but also to the metaphysics form of earth. (Beauvoir, 1978: 38) "Woman tries to harmonize life and transcendental existence. She longs for a good which is called harmony that she wants to live in. Harmony is the fundamental stones in women world. (Beauvoir,1978: 39) Besides other meanings, this word includes every notion needs to be confirmed by looking at the unity. (Beauvoir, 1978: 39) Within this context, it is possible to evaluate some women participants in the survey interpreted the virtues of vomediator within "usefulness" fundamentality.

Besides, it is obvious that participants' point of view regarding the virtues of vomediators in vom, do not change according to their ages. This data can be commented as the necessity of virtuousness of the vomediator is common agreement of all ages.

Besides that, when qualities of the participants of vom are evaluated separately, both vomediators, complainants, suspects/defendants emphasize strongly

that vomediator should have virtues in vom process. The point that vomediators should have virtues within the process of vomediation is over 5 point; as vomediators averagely 3.74, complainants 3.86 and suspects/defendants 4.25.

In the context of the virtues required to the vomediator during the vom process, the most emphasized virtue by vomediators is the courtesy with 4.74 point. The most emphasized virtue by suspects / defendants is justice with 4.76 point. The most emphasized virtue by complainants is justice with 4.58 point.

The most significant difference between the groups is the question of being grateful. The highest score was given by the suspects/defendants with a score of 3.94 and the lowest score by the vomediators was 2.33. We think that, this data may be considered as the vomediator's virtue of gratitude by the vomediators, contrary to their role in the process, especially their impartiality.

Suspects/defendants generally emphasized that vomediators should have virtues in vom process, more with high scores than vomediators and complainants. This data signifies that the suspects/defendants have much more intensisty and demand the necessity of vomediators to have virtues. The other significant result is that vom process should be carried out with victim sensitive and offender sensitive. In the lights of these data related to vom, it can be put forward to process should be carried out with victim sensitivity balanced with suspect/defendant sensitivity.

The vomediators signified that, vomediators should have many virtues, but respectively courtesy, justice, temperance, prudent are emphasized.

Complainants signified that, vomediators should have many virtues, but respectively justice, courtesy, temperance, prudent are emphasized.

Though the order of precedence is changed, the first four virtues emphasized by vomediators and complainants are same, is an important result. As a result, it can be said that vomediators and complainants have a common sensitivity regarding the virtues in vom, though the order differs.

Suspects/defendants stated that vomediators should have many virtues, respectively, justice, good will, tolerance and courtesy and it is obvious that they differ from vomediators and complainants' ideas. It can be said that suspects/defendants think that vomediators need virtues of good will and tolerance in vom process. These data indicates that suspects/defendants do not want to be judged,

accused, condemned and not be accepted as criminal beforehand. Besides though suspects/defendants may have committed the crime which is accused, in vom process they want to be behaved in justice, with good will and tolerance.

It is possible to consider that encouraging arrangements for adoption of vom as a full-time and independent profession would be beneficial to the vom institution in the context of gaining experience by the appropriate and willing people.

A symposium to ensure the elimination of confusion in the legislation regarding recommended to arrange settlement in Turkey. It can be evaluated to reach conclusion by evaluating the new concept proposals about vom that we have brought up in our thesis together with the new ideas to be formed in this symposium.

In national and international texts and the legislation in Turkey, it is seen that the necessity of mediators and vomediators to have virtues and virtuousness in the process seems to take place in a limited and insufficient way in professional standards and ethical principles. We think virtues and virtuousness should be in Professional Standards of mediation and vomediation openly and obviously and Ethic Codes should be determined comprehensively, follow the standards and behave ethically. Associations can be established to emphasize the relevance of restorative justice and vom in to virtues and philosophy. Panels on virtues that the vomediators should bear in vom process can be organized by these associations and contributions can be made regarding the necessity of vomediators to have virtues in process.

Taking into consideration the dominant idea that being a qualified mediator is one of the most important thing, to reach the professional standards, mediation and vomediation education programmes should also arranged to support having a good character taking virtues as fundamental principles. Having and reinforcing ethic behaviours which are aimed in vom, not disregarding learning what the virtue is. Learning about virtues is not enough for practicing it; giving information and remembering about virtuousness and virtues can form a standard for the person and also if he is not capable of having a virtue, he can be given a reference. (Sponville, 2015: 15) In mediation training, it can be offered to add subjects related to virtues and virtuousness of mediator in general and in special education according to mediation types aiming to raising qualified mediator. For example, in a vom training program, candidates who want to become vomediators can be given a preliminary training on

virtues and virtuousness. Vomediators can be trained to strengthen their character in their routine training. In addition to general virtue and virtue training, the vomediator should be provided with a special training on the virtues specific to the vom process. Besides that, it can also be proposed that special conditions to work with suspected/accused and victim/affected by crime which is given in education subjects, stated in Vom Reg. LCP a.50/2; one lesson within the integrity of philosophy and science can be added to education programme. This educational programme module should be related with virtues and virtuousness of the vomediator.

In terms of new research topics, training programs that combines virtues with mediation process and vomediation process management can be prepared. It may be suggested to include intense life examples in the trainings, to benefit from the elements such as story and cinema and to be combined with the practice of vomediation. It is important that such education be given in universities where graduates may be medaitors and vomediators. In addition, it may be suggested to develop training programs on virtues and virtue for mediator and mediator candidates. When the virtue of justice is taken as an example, it is indispensable for the mediator, who is the ruler of the justice process, to understand the concept of justice as a virtue with his philosophical dimension, for the mediation institution, trust in justice and social peace. Finally, in order to develop culture of compromise and peace among mediators and to create qualified mediators of the future it may be suggested to include the course module on virtues and virtuousness to the peer mediation training courses. It can be thought that as mediators integrate with virtues and virtuousness, their power to contribute to humanity and peace will increase.

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APPENDICE

Sayın Katılımcı,

Elinizdeki anket, Dokuz Eylül Üniversitesi Sosyal Bilimler Enstitüsü, Anlaşmazlık, Çözüm ve Arabuluculuk Programı dahilinde yürütülmekte olan bir yüksek lisans tezinin saha çalışması olarak tasarlanmıştır. Anketlerin doğru ve eksiksiz doldurulması çalışmanın sonuçları açısından büyük önem arz etmektedir. Anketler tamamen anonim olup, anketlerden elde edilecek veri toplu halde analiz edileceğinden ötürü, katılımcılara ait bireysel bilgi ve detaylar önem arz etmemektedir. Bu bilimsel çalışmaya katkılarınızdan ötürü sizlere teşekkür ederiz.

**Tez Danışmanı
Prof. Dr. Alev Katrinli**

Bölüm 1. Demografik Sorular

1)Uzlaştırma sürecinde hangi sıfatla bulunuyorsunuz/bulundunuz?

a)Uzlastirmacıb)Şüphelic)Müşteki

2)Cinsiyetiniz nedir?

a)Kadın

b)Erkek

3)Hangi yaş aralığındasınız?

a)25 ve altı

b)26-35

c)36-45

d)46-55

e)55-65

f)65 ve üstü

Bölüm 2. Uzlastirmacının Erdemleri

Aşağıda bazı erdemlere ilişkin ifadeler bulunmaktadır. Lütfen bu ifadeleri, uzlaşma sürec(ler)inizi göz önünde bulundurarak, ifadelere ne kadar katılıp katılmadığınızı belirtecek şekilde değerlendiriniz.

1= Kesinlikle Katılmıyorum 2= Katılmıyorum 3= Kararsızım 4= Katılıyorum
5= Kesinlikle Katılıyorum

1	Uzlaştırıcı, uzlaştırma sürecinde nezaketli olmalıdır	1	2	3	4	5
2	Uzlaştırıcı uzlaştırma sürecinde sadakatli olmalıdır					
3	Uzlaştırıcı uzlaştırma sürecinde basiretli olmalıdır.					
4	Uzlaştırıcı uzlaştırma sürecinde ıhlamlı(itidalli) olmalıdır.					
5	Uzlaştırıcı uzlaştırma sürecinde cesaretli olmalıdır.					
6	Uzlaştırıcı uzlaştırma sürecinde adaletli olmalıdır.					
7	Uzlaştırıcı uzlaştırma sürecinde cömert olmalıdır					
8	Uzlaştırıcı uzlaştırma sürecinde merhametli olmalıdır.					
9	Uzlaştırıcı uzlaştırma sürecinde bağışlayıcı olmalıdır.					
10	Uzlaştırıcı uzlaştırma sürecinde minnettar olmalıdır.					
11	Uzlaştırıcı uzlaştırma sürecinde alçakgönüllü olmalıdır					
12	Uzlaştırıcı uzlaştırma sürecinde sade olmalıdır.					
13	Uzlaştırıcı uzlaştırma sürecinde hoşgörülü olmalıdır.					
14	Uzlaştırıcı uzlaştırma sürecinde saf olmalıdır.					
15	Uzlaştırıcı uzlaştırma sürecinde yumuşak huylu olmalıdır.					
16	Uzlaştırıcı uzlaştırma sürecinde iyi niyetli olmalıdır.					
17	Uzlaştırıcı uzlaştırma sürecinde mizah gücüne sahip olmalıdır.					
18	Uzlaştırıcı uzlaştırma sürecinde sevgi/aşk dolu olmalıdır.					