

**PHILOSOPHY OF LEGISLATION IN  
AL-FĀRĀBĪ'S VIEW BASED ON KITĀB AL-  
MILLAH AND SIYĀSAT AL-MADANĪYAH**

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**Abstract**

The main issue in this paper is whether it is possible to derive a coherent system of legislation in Fārābī's philosophy or not? This paper argues that the issue of legislation in Fārābī's philosophy is obvious, and the topic of legislation was discussed in Fārābī's philosophy coherently. The meaning of coherence is that the need for law, the sources of law, the method of legislation, and the purpose of legislation can be extracted in Fārābī's view. Fārābī's theories in these four axes are philosophy of legislation. In addition, this research paper aims to discuss and examine these four axes, which will ultimately lead to the presentation of the philosophy of legislation. All of these four axes are found in two of Fārābī's books. First, *Kitāb al-Millah*, and second, *Siyāsat al-Madanīyah*. Furthermore, in the sources of law, the theory of natural law, in the

method of legislation, the theory of aristocracy, and in the purpose of legislation, the theory of happiness can be inferred. In doing so, the philosophy of legislation in Fārābī's point of view is based on the natural law and innate nature (*Fiṭrah*) for achieving happiness, and it is codified by someone wise. The main goal of the study is to accurately understand Al-Farabi's philosophical and social foundations to extract his legal theory as an approach to the philosophy of law with descriptive-analytical methods. This study fills a gap by systematizing Fārābī's legislative philosophy into four axes.

**Keywords:** *Al-Fārābī, Philosophy of Legislation, Natural Law, Happiness, Phronesis (practical philosophy).*

## 1. Introduction

It can be claimed that moral philosophy is the foundation of political philosophy and even philosophy of law. This claim can be seen in Al-Fārābī's philosophical system, and the ethical issues play an important role in Fārābī's practical wisdom and civil philosophy. On the other hand, practical wisdom has a fundamental and significant role in his philosophy. Among Muslim philosophers, he was the first philosopher, who systematically discussed practical wisdom.<sup>1</sup>

The Fārābī's philosophy of legislation is composed of natural rights and the social contract, which the social contract should also be established based on natural rights, whose purpose should be to achieve happiness. Fallah Nezhad et al. (2020) reckon that the relationship between codified laws and natural traditions is one of Fārābī's teachings.<sup>2</sup> Moreover, the philosophy of legislation is based on innate natural rights, and these rights are obvious in the philosophy of Fārābī.<sup>3</sup> Further, a type of common law can be observed in Fārābī's philosophy of law and philosophy of legislation. In addition to this, a type of civil rights is found in the Philosophy of Fārābī. It seems that the codification of laws (*Shara'i*) in Fārābī's ideal society is based on the Objectives of Islamic law (*maqāṣid al-sharī'ah*). Thus, the philosophy of legislation in the philosophy of Fārābī is compatible with a number of legal systems and seems flexible.

Al-Fārābī in his works discussed and theorized about many social issues, and among these works are *Kitāb al-Millah* and *Siyāsat al-Madanīyah*. Furthermore, *Kitāb al-Millah* is a synoptic treatise, and while it is synoptic, it is the foundation of other works of Fārābī. Albeit Fārābī wrote his works in a synoptic path, the history of philosophy is a movement from synopsis to details.<sup>4</sup> With his synoptic style of writing, he opened the way for the detailed writing of philosophers

after him, and he also opened this path before them. In other words, Fārābī has expressed his general views in *Kitāb al-Millah*, and then he has expressed those contents in more detail in his other books and treatises such as *Siyāsat al-Madanīyah* and *Ārā' ahl al-madīnah al-fādilah*. As an example, he has generally mentioned the kinds of communities in *Kitāb al-Millah*,<sup>5</sup> while he discussed more about societies in *Siyāsat al-Madanīyah* and *Ārā' ahl al-madīnah al-fādilah*.<sup>6</sup>

The problem of this paper is whether, by using Fārābī's practical wisdom, a coherent legislative system can be achieved. We can claim that the topic of legislation, and in other words, the philosophy of legislation, can be found. The philosophy of legislation can also be extracted from Fārābī's views by examining *Kitāb al-Millah* and *Siyāsat al-Madanīyah*. The source and foundations of law, the lawmaker, the method of legislation, and the purpose of legislation can be inferred from Fārābī's philosophy. Hence, the main point of this study is to extract Fārābī's theories from these two books, which leads us to his legislative doctrine, which we have called the philosophy of legislation. The four axes are extracted from these two books, and the result of these is the philosophy of legislation.

1. The need for law and legislation;
2. Ethics and natural rights as sources of law;
3. Legislation, lawmaker, and the method of legislation;
4. The purpose of legislation.

The focus on Al-Fārābī's practical wisdom is significant in two main aspects. Firstly, the lesser-known angles of practical wisdom in Islamic Philosophy will become better known. Secondly, different intellectual systems can be inferred from it, some of which are also related to contemporary philosophical, political, legal, and economic theories. In doing so, this research paper aims to infer the philosophy of legislation, which is important from a philosophical, legal, and political viewpoint.

### Literature Review

Daiber<sup>7</sup> discussed Al-Fārābī and the main focus of this book on Fārābī's social and political philosophy. In addition, the topic of aristocracy was discussed. This book, in chapter 23, discussed philosophy and law in Fārābī's view. Birdiqli<sup>8</sup> discussed different aspects of Fārābī's political philosophy coherently. Yuslih<sup>9</sup> compared Aristotle's political philosophy with the political philosophy of Fārābī. Germann<sup>10</sup> discussed Fārābī's social and religious philosophy with a comprehensive view. Maftouni<sup>11</sup> discussed revelation and prophecy in

the philosophy of Fārābī and Avicenna. Rezazadeh Joudi & Divani<sup>12</sup> wrote a paper about divine inspiration in Fārābī's philosophy with epistemological description and analysis. Fallah Nezhad et al.<sup>13</sup> discussed natural rights in Fārābī's view.

Although a number of studies have been done on various and different aspects of Fārābī's political philosophy, which is closely related to his philosophy of law, no specific study has been done on the discussion of legislation from Fārābī's philosophy. Moreover, this study, owing to extracting the philosophy of legislation from Fārābī's intellectual foundation, is a new and significant research in the realm of philosophy, politics, and law. This paper bridges Fārābī's ethics and his theory of law by examining legislative coherence, and the main thesis of this article is to identify some of the basic approaches of Fārābī's philosophy of law as one of the specific approaches of Islamic political and social philosophy, based on the identification of the four axes.

### **Methodology**

The method of gathering scientific data for this paper is library-based, and the main texts for the study are *Kitāb al-Millah* and *Siyāsat al-Madanīyah*. The reason for choosing these works are the foundations of Fārābī's political and social theories. Additionally, due to this paper, which analyzes Fārābī's theories about the foundation of legislation, is a descriptive paper, and due to its focus on his views with a new analytical perspective for categorizing his theories besides the descriptions; it is an analytical paper. Therefore, this study is descriptive-analytical, and we would rather study of Fārābī's foundations with conceptual analysis viewpoint.

### **Discussion**

We dedicate the paper's discussion into four axes i.e. 'the Need for Law and Legislation' as the first axis, 'Ethics and Natural Rights as Sources of Law' as the second axis, 'Legislation, Lawmaker, and the Method of Legislation' as the third axis, and 'the Purpose of Legislation' as the fourth axis.

#### **First axis: The Need for Law and Legislation**

Humankind is one of the creatures that absolutely does not reach the basic needs of its life, nor the higher states, except through coexistence with others and presence in a single place and together with each other.<sup>14</sup> It is clear from Fārābī's expression that mankind is a social being by nature, and this leads to establishing a job and

achieving happiness. Thus, the economic theories can be extracted from Fārābī's philosophy.<sup>15</sup> He claims that individuals need each other to achieve a purpose.<sup>16</sup> On the other hand, it should be said that everyone should perform their job efficiently so that the community's ultimate goal is achieved. Besides, this opinion is somewhat similar to the view of Adam Smith,<sup>17</sup> and this view also implies meritocracy.<sup>18</sup>

According to Fārābī, human communities are divided into three categories:

1. The big community, like nations and religions;
2. The middle community, like a nation or a religion;
3. The small community, like a city (A Small community, like a family, is considered an incomplete community).<sup>19</sup>

Every religion (*Millah*) differs from other *Millah* through two fundamental things: first is morals and morality, and second is the state of natural creation. There is also a third thing that is considered a contract and i.e. the language. We should say that the same things that distinguish one *Millah* from another are the same that lead to conflicts or cause a community to depend on another society. As a result of this, with the need for societies to each other or the possibility of conflict between them, the existence of a legal system is intuitively inevitable. There is another cause in addition to the other causes that we have mentioned earlier, and this cause is the geographical situation.<sup>20</sup>

### **Second axis: Ethics and Natural Rights as Sources of Law**

Al-Fārābī in *Siyāsat al-Madanīyah* considers active intellect as another factor that leads to the perfection of individuals, which leads to distinguishing a person from others. According to him, giving the final perfections is not based on spherical (*Falakīyāt*), and it is the active intellect (*'Aql al-Fā'il*) that gives the final perfections of a person.<sup>21</sup> It can be concluded from Fārābī's words that he believes in something like the primal genesis and the second genesis. The primal genesis (*Fiṭrat-i Ūlā*) is a something that is given to persons by nature and spheres (*Aflāk*), and the second genesis (*Fiṭrat-i Thānī*) is something that is given by the active intellect. The second genesis is the transformation of potential intellect into actual intellect. Hence, a human being has a kind of passion in its soul, which brings it to intellectual perfections from the first senses, and in this process, the active intellect gives those senses to the intellectual soul. The passion that exists in the human soul is authority or free will.<sup>22</sup> This power is the one that made morality meaningful for humankind. Above all, we can claim that Fārābī sets a boundary between nature and culture. What

has given human nature is nature and the spheres, and one who has made culture meaningful for humans is the active intellect.

Fārābī discusses briefly many philosophical and political problems, while he discusses in more detail many issues, and one of them is the topic of innate nature (*Fiṭrat*). Fārābī says:

The people who have a well-innate nature have a common nature by which they accept the primal knowledge, and this nature is common among all, and all of them are moving towards common works by means of that common sense. This is the basis of the work of universal and common happiness and the common thing between people with well well-innate nature.<sup>23</sup>

Al-Fārābī also talks about the specific nature in the same place, which means that every person has their specific nature.<sup>24</sup> Fārābī, in his other works, claims that there is a power that people can know good, and this power can also grant good.<sup>25</sup> It can be well understood that what Fārābī has stated is common sense that identifies natural laws.<sup>26</sup>

According to what Fārābī said, there are some natural rights common to people. Natural rights are what common sense immediately understands and what John Locke referred to as liberty, equality, and property.<sup>27</sup>

According to Fārābī, one of the natural laws is the diversity of talents, and this will create different jobs and duties in society. Thus, the rights related to jobs and different affairs will also be formed under the shadow of natural rights, and all of them are based on human nature. What emerges from the meaning of Avicenna's words in *Ishārāt wa Tanbīhāt* is that people have different talents, and some who have more intelligence should come to intellectual knowledge.<sup>28</sup>

What they refer to as natural rights are the same stable divine traditions, and their understanding will also be understood by common sense, which is common among people. Every individual knows that various things like justice are good for human beings, and everyone knows intuitively that the human soul is a noble thing. We are not exaggerating if we claim that respecting other creatures other than human beings will be a part of divine and natural traditions. If we accept that natural rights are everlasting divine traditions, then all creatures in the universe are related together, and humans as creatures also have a relationship with these creatures, and when two creatures communicate with each other, they have rights. In addition to this,

some Persian poets have also said, "Do not bother the ant which is carrying seed because it has a soul and it is happy with its sweet soul".<sup>29</sup> Thereby, in addition to respecting other people is a duty for individuals, respecting other creatures is also a duty for individuals, due to the relationship between creatures, and this relationship is a divine tradition.

Further, there are relationships and similarities between Natural rights in Fārābī's philosophy and the objectives of Islamic law (*maqāṣid al-sharī'ah*), and if we claim that the objectives of Islamic Law or *Fiqh al-Maqāṣid* are rooted in Fārābī's views, we have not engaged in a wrong discussion. If we follow the objective of Islamic Law from the Abu Hamid al-Ghazālī and Abū Ishāq al-Shātibī's view, then we can say that a ruling has reached the objectives by returning to one of these five objectives: 1. The preservation of religion (faith); 2. The preservation of the soul (self); 3. The preservation of reason; 4. The preservation of lineage; 5. The preservation of property.<sup>30</sup> It should be noted that this division is inductive. Accordingly, what emerges from Fārābī's views, especially in the subjects that are derived from natural rights,<sup>31</sup> is that his thought is compatible with or at least related to the objectives of Islamic law.<sup>32</sup>

### **Third axis: Legislation, Lawmaker, and the Method of Legislation**

What emerges from Fārābī's views and words is that the social contracts that must be codified by the lawmaker should be based on natural rights. What is more, when the first ruler, who, according to Fārābī, is a person who has reached the acquired intellect (*'Aql Mustafād*) and has the ability to receive revelation, is present and alive, that person has to codify these rules.<sup>33</sup> The natural rights are what people reach by using their common sense, and revelation does not rule against natural laws and divine traditions. What the first ruler enacts as a law is codifying and detailing the rights and laws based on natural rights in different situations, all of which are derived from the supreme power of the first ruler.

According to Fārābī's views, the people who are managed by the first ruler are the virtuous people (*Mardum-e fāḍilah*) and their society is a virtuous society (*Jāme'a fāḍilah*). Thus, it is obvious that the Virtuous City (*al-madīnah al-fāḍilah*) is a place where natural rights are respected and the laws are established by the first ruler. However, Fārābī claims that in the absence of the first ruler, his successor and successors should be aware of his laws and traditions and be able to replace the previous laws based on expediency.<sup>34</sup> The Fārābī's claim in this situation is close to the objectives of Islamic law.

On the other hand, the successor of the first ruler must be a person who knows the first ruler's views and has the power to make decisions on his behalf and simulate what kind of law he would enact if he were willing. Accordingly, replacement and reformation of a law must be based on natural rights as the general criterion of the philosophy of legislation. In addition, it must be based on the first ruler's views and doctrines. Fārābī also says that the ruler after the first ruler can be a community of rulers, who are also considered as one ruler

Fārābī believes in a hierarchy in the virtuous city, and the first ruler in the first place of this hierarchy. According to Fārābī's philosophy, the hierarchy in the Virtuous City is similar to the hierarchy in the universe. Indeed, the first place is nondual (*Wāḥid*), and the higher we approach, the more unity (*Waḥdat*) we observe.<sup>35</sup>

The first ruler of the Virtuous City is the person who educates the other people on different levels, and in other words, he is the one who codifies the rules for the other people on different levels.<sup>36</sup> Therefore, each level of the Virtuous City's levels has some specific rules and laws, and these laws are also ratified by the first ruler, and its source is what is deduced based on his acquired intellect, which is the same revelation that indicates natural laws, and it is divine traditions. On the other side, the mission of the first ruler is to bring the virtuous city's citizens to a unity, like a unity in the universe. Different creatures are considered as a single existence. By doing so, the theory of unity in multiplicity (*Waḥdat dar Kathrāt*) is found in the philosophy of Fārābī, and it is current in both the universe and the political world.<sup>37</sup> According to these views, it can be claimed that there is harmony between metaphysics and civil wisdom in Fārābī's philosophy.

Al-Fārābī claims in *Tanbīh 'ala Sabīl al-Sa'ādah* that in order to achieve good morals, we must count each and every temperament, and consequently, the work of a moral person is like that of a medic.<sup>38</sup> In addition to *Tanbīh 'ala Sabīl al-Sa'ādah*, he provides this allegory in *Kitāb al-Millah*, and in this treatise, he says that the ruler in a virtuous city is like a medic. The society's ruler should know the rules, just as a medic must be familiar with the general rules of medicine and be able to apply them based on the patient's condition.<sup>39</sup> Hence, it can be said that the first ruler should have the necessary knowledge to establish laws and must have investigated all the good morals and temperaments and be able to set the laws based on them. Additionally, the first ruler should also know all the natural laws that have been instilled in him by revelation through the use of acquired intellect and

be able to implement them in society, and his main aim is happiness for his community.

However, a critical consideration is that Fārābī's concept of the first ruler is a theological one, and this is also acknowledged by some other scholars, such as Belo (2021).<sup>40</sup> This makes it less likely that the desired government from Fārābī's point of view will exist in practice as time passes since the time of the Prophet (*Ṣal Allāh-u-'alaihe wa sallam*). Although Fārābī also proposed successors for the first ruler,<sup>41</sup> it remains to be seen whether Fārābī's components can be applied to politicians and legislators as successors to the first ruler in the modern period, which is the era of nation-states.

#### **Fourth Axis: The Purpose of Legislation (The Theory of Happiness as an objective)**

Fārābī has theorized about happiness in *Siyāsat al-Madanīyah*. It should be added that the subject of happiness is an important topic in philosophy and the vast majority of issues that discussed by moral philosophers are about happiness.<sup>42</sup>

Fārābī in *Kitāb al-Millah* says that the first topic of civil wisdom is happiness, and he divides the happiness to the true happiness and presumptive happiness.<sup>43</sup> We should say that sometimes the preparatory happiness is also considered presumptive happiness. Thereby, the subject of happiness plays a fundamental role in Fārābī's philosophy. In addition to the fact that happiness is the first topic of civil wisdom and this book was started about it, Fārābī ends *Kitāb al-Millah* with the phrase "true happiness".<sup>44</sup> It can therefore be argued that the main subject of civil wisdom is happiness and this subject is an ethical subject and as a result of this, the main subject of civil wisdom is a moral issue. In other words, civil wisdom has a strong bond with morality and ethics.

Fārābī admits in *Siyāsat al-Madanīyah* that natural causes can be a cause for mankind to achieve happiness and also natural evil can prevent man from happiness. The truth is natural evils are not evil themselves and are considered evil in comparison with other phenomena.<sup>45</sup> He gives the example of a viper that "serves other creatures by their poisons, by attracting harmful animals to themselves, as well as the poisons that exist in plants, and it is possible that such poisons are relative poisons".<sup>46</sup> It must be added that other philosophers like Avicenna and Suhrawardī are also known to hold that the evils are relative. Namely, the evils are possible to be bad phenomena for a creature and be good things for other creatures.

Furthermore, if we measure something that is considered evil in comparison with the whole universe, it will no longer be an evil thing.<sup>47</sup>

In contrast to natural evil, Fārābī discusses about moral good and evil that originates from humans, and if evil comes from a person voluntarily, it will no longer be a relative matter, and it is actually considered evil. Every action, regardless of whether it is good or evil, has a source, which Fārābī considers five sources. 1. Rational Faculty (Theoretical faculty); 2. Practical faculty (Practical reason); 3. Appetitive Faculty; 4. Imaginal Faculty; 5. Sensible Faculty.<sup>48</sup>

Moral evil is the one that sometimes originates from the imaginal and sensitive faculties of man, because both of them do not have an understanding of happiness, and sometimes it originates from the rational faculty, because the rational faculty has not paid attention to it. Moreover, it can be said that the interference of man imaginal faculty with rational faculty will lead to evil from man. In addition to this, sometimes individuals think that what is not happiness is happiness and make it their objective and it leads to the exportation of evil.<sup>49</sup> Perhaps this issue can be considered part of the second part of Fārābī's division in *Kitāb al-Millah*. It should be pointed out that sometimes preparatory happiness is considered true happiness, and sometimes something that is not happiness at all is confused with true happiness, and it should be known that there is a fundamental difference between these two.

The discussion of happiness is raised where there is social. The moral evil that comes from man is due to his relationship with society. Consequently, since man is connected with the society and presumptive happiness is sometimes confused with true happiness, the drafting of law is inevitable. This is another reason for the need for law. What emerges from Fārābī's view in *Kitāb al-Millah* is that he considers the division of labour to be one of the factors of creating happiness, and it is undeniable that the division of labour is relevant where there is social interaction, and therefore it is not difficult to understand that happiness has a social identity.<sup>50</sup>

It may be said that this opinion of Al-Fārābī is close to Immanuel Kant's opinion, who considers moral duty to be the perfection of oneself and the happiness of others.<sup>51</sup> The reason for this claim is that Fārābī reckons in the complete social identity for happiness, just like Kant also believes happiness as related to society. On the other hand, from Fārābī's views in *Kitāb al-Millah*, it is understood that he considers division of labour necessary for humans

to excel in their work in order to create happiness for community. In addition, this fact emerges from Fārābī's view about inner nature.<sup>52</sup>

What is the purpose of the ruler in the virtuous city is to bring people to happiness, and also in general, the goal of virtuous city is to reach happiness. Accordingly, the law of the society should also be such that it paves the path to happiness for the individuals. Since the purpose of the ruler in the virtuous city is the happiness of the people in the virtuous city and since he is the legislator, the purpose of the legislator is also happiness. Therefore, the purpose of all these rules is to achieve happiness, and as we mentioned before, the main focus of *Kitāb al-Millah* is happiness, and the main purpose of the first ruler is to guide the virtuous society towards happiness. Furthermore, Al-Fārābī considers happiness as the purpose in *Tanbīh 'ala Sabīl al-Sa'ādah* which is about ethics.<sup>53</sup> In addition to this, Fārābī has discussed happiness specifically. He considers the attainment of happiness through the elimination of moral evils of people in society and even natural evils.<sup>54</sup> We should claim that it may be considered impossible to completely prevent natural evils. Perhaps it should be said that Fārābī's intention that science in a virtuous city should grow to such an extent that it is possible to prevent many natural evils. In fact, the reason for our claim is Fārābī's claims in *Siyāsat al-Madanīyah*. He says:

Each of the people of the virtuous city should know the first principles, their levels, happiness, and the first ruler of the virtuous city, and the levels of those leaderships, and in the next order, they should also recognize the actions and deeds that are specific and limited through which happiness and well-being are achieved, and not only just be content with knowing them, but also the people of the virtuous city should implement all of them in whole and in part.<sup>55</sup>

According to this Fārābī's claim, we can understand that people in the virtuous city should always follow knowledge and wisdom. He says people should know about the first principles, know about the first ruler of society, and know about happiness. In doing so, individuals should know theology and practical wisdom. On the other hand, with more focus in Fārābī's words, we can understand that what Fārābī means is theoretical wisdom, and theology is also a part of theoretical wisdom. It can therefore be argued that if we want to look at this issue with the glasses of today's science, we must say that preventing natural evil is something that comes from natural sciences and engineering, and they are also considered part of theoretical knowledge.

At the same time, however, the laws in the virtuous city are based on knowledge and wisdom. Since the first law of the virtuous city is codified by the first ruler who is a virtuous and wise person, this means that the law of the virtuous society is in complete harmony with knowledge and wisdom. Additionally, another thing that comes to mind from Fārābī's words in this positions is that the people of the virtuous city should know the law, while they should follow knowledge and wisdom. As a matter of fact, if individuals know the first principles as the origin of beings and also the first ruler, they will also be well aware of the laws of the universe and the laws of the virtuous city. Fārābī's emphasis is that the people of the virtuous city should act on what they know; therefore, the people of this society are morally and law-abiding people, and as we said earlier, the purpose of the laws of this society is to achieve happiness. Besides, people who know happiness and follow the rules that lead to happiness it can be claimed that they are on the path to happiness.

What is more, Fārābī's views in *Tanbīh 'ala Sabīl al-Sa'ādah* also confirm his words in *Siyāsat al-Madanīyah*. In that treatise, he has acknowledged that happiness does not happen by accident, and it is because of awareness that happiness is achieved. As a result, awareness is the prelude to happiness.<sup>56</sup> Since Fārābī considers happiness to be the main purpose of individuals,<sup>57</sup> and what can be seen from his expressions, his moral, political, and legal school can be considered as the happiness school of thought (*Maktab Sa'ādah*).

As we mentioned earlier, the happiness in Fārābī's views can be deduced in his phronesis (practical wisdom), and the concept of happiness plays a key role in Fārābī's moral philosophy and phronesis. If we accept that Fārābī's moral issues are the root of his civil wisdom, both his political and legal issues, it becomes clear that the laws of the Virtuous City should lead people to happiness. In other words, ethics is not unrelated to rights, and ethics has internal obligations, and law has external obligations. In other words, the executive guarantee of rights is determined by the government (external matter), and the executive guarantee of morals is determined by the individual's conscience (internal matter).<sup>58</sup> Morality is the essence of law, and many legal rules are variable, while morality, unlike legal rules, is not variable. This fact proves that morality is the basis of law, because every variable thing needs a stable thing.<sup>59</sup>

### **Applying Al-Fārābī's Philosophy of Legislation in Modern Political Philosophy and Philosophy of Law**

One of the issues that may arise in this discussion is whether Fārābī's philosophy of legislation is merely a concept in classical Islamic political thought or whether it has applicability in modern Islamic political philosophy and even in modern political thought in general. One thing we must accept is that the idea of modern man regarding many concepts and phenomena has changed compared to ancient and classical man. For example, there are numerous interpretations of the concepts of equality and democracy in ancient and modern times, and some researchers have also addressed them.<sup>60</sup> On the other hand, some of Fārābī's political and legislative foundations have a religious basis, assuming that these foundations are transcendental and, as a result, they are trans-temporal and trans-spatial. In other words, they are applicable to all places and all times. If we accept this, we must also accept that the diversity of societies and beliefs is greater in the modern era, and accepting many of Fārābī's principles may be challenging for some people in modern societies. In doing so, many of Fārābī's principles must be adapted to the understanding of modern societies, and for those religious principles that are of a trans-temporal and trans-spatial nature, the objective of each Islamic law must be well explained so that it is understandable and acceptable to individuals in present societies. Another argument, which follows on from the first argument, is that one of the main foundations of Fārābī's philosophy of legislation and political philosophy is based on virtue ethics and the concept of happiness. However, in order to apply Fārābī's political principles in the present era, his ethical principles and the concept of happiness must be adapted to other interpretations of virtue and happiness.<sup>61</sup>

### **Conclusion**

What we have expressed in this paper as "philosophy of legislation" can be extracted based on the four axes in Fārābī's philosophy with a focus on *Kitāb al-Millāh* and *Siyāsat al-Madanīyah*. What is stated in the first axis is that people are naturally civil, so they need each other to carry out their work, and in this case, a society is formed, and with the creation of a community, there is a need for laws. In the second axis, the revelation that is received by the first ruler who has acquired intellect and uses it as the highest source of legislation. In the third axis, it has been realized that the person who makes the law is the first ruler of the virtuous city, who has access to the source of revelation, and also his successor or successors can make changes in the laws due to the knowledge of the tradition of the first ruler. Last

but not least, what is stated in the fourth axis as the purpose of legislation is the one on which Fārābī's political and social philosophy was formulated, and i.e. the concept of happiness. In addition, the theory of happiness can be found in Fārābī's philosophy, and the main purpose of the Virtuous City's ruler, the virtuous city's citizens, and the purpose of the laws of this society is happiness. By examining the themes of Fārābī's philosophy of legislation, many aspects of his political philosophy are not only important in the history of Islamic political thought, but also have the potential to be present in modern Islamic political theory. On the other hand, since the roots of Fārābī's philosophy of legislation and political philosophy are ethical and theological issues, it is also possible to discuss Fārābī's philosophy of legislation in moral philosophy and theology. This could lead to future research on the potential use of Fārābī's views in legislative ethics as well as modern Islamic political philosophy. However, one critical point that remains for future discussion is how Fārābī's views, which are more based on ethics, can be effective in today's modern political and legal societies, which are more based on power.

#### Notes and References

<sup>1</sup> Mohammad Ali Vatandoost, "Practical wisdom in Islamic philosophical tradition an investigation of causes of imperfect growth," *Journal of Advanced Pharmacy Education and Research* 9 (2019); Nadja Germann, "al-Farabi's Philosophy of Society and Religion", *The Stanford Encyclopedia of Philosophy* (2021): <https://plato.stanford.edu/archives/spr2021/entries/al-farabi-soc-rel>.

<sup>2</sup> Akbar Fallah Nejad et al, "The Natural Right from the Viewpoint of Farabi". *Philosophy of Religion* 17, no. 1, (2020): 23-48, doi: 10.22059/jpht.2019.268751.1005610

<sup>3</sup> Abu Nasr al-Fārābī, *Siyāsāt al-Madanīyah* (Tehran: Iranian Philosophy Association, 1979), 148.

<sup>4</sup> Reza Davari Ardakani, *Fārābī: The founder of Islamic Philosophy* (Tehran: Iranian Philosophy Association, 1977).

<sup>5</sup> Abu Nasr al-Fārābī, *Kitāb al-Millah wa-nuṣūṣ uḥrā* (Beirut: Dar al-Mashriq, 1991), 44-45.

<sup>6</sup> Abu Nasr al-Fārābī, *Siyāsāt al-Madanīyah* (Tehran: Iranian Philosophy Association, 1979), 156-204; Abu Nasr al-Fārābī, *Al-Manteqiyat* (Qom: Marashi Najafi Library), 122-151 & 160-166.

<sup>7</sup> Hans Daiber, *From the Greeks to the Arabs and Beyond*, chapters 16 to 24 (Leiden: Brill, 2021), <https://doi.org/10.1163/9789004441811>.

<sup>8</sup> Fikret Birdiqli, "Political Philosophy of Al Farabi and the Logic of the Integration and Solidarity in Context of Idealism". *International Journal of Politics and Security* 1 no.2, (2019): 122-139.

<sup>9</sup> Muhammad Yusliḥ, "Political Philosophy: A Comparative Analysis of Al-Farabi and Aristotely's Thought". *Kawanua International Journal of*

*Multicultural Studies* 3 no. 2, (2022): 44-51.  
<https://doi.org/10.30984/kijms.v3i2.240>

<sup>10</sup> Nadja Germann, "al-Farabi's Philosophy of Society and Religion", *The Stanford Encyclopedia of Philosophy* (2021):  
<https://plato.stanford.edu/archives/spr2021/entries/al-farabi-soc-rel>.

<sup>11</sup> Nadia Maftouni, "A Comparative Study of Revelation and Prophecy According to Farabi and Ibn Sina". *Avecinnian Philosophy Journal* 12 no. 39, (2008): 5-24, doi: 10.30497/ap.2008.67928.

<sup>12</sup> Mahdi Rezazadeh Joudi & Amir Divani, "Description, analysis and epistemological elaboration of divine inspiration in Farabi's thought", *Existence and Knowledge* 7 no. 2, (2021): 141-160. doi: 10.22096/ek.2022.530554.1365

<sup>13</sup> Akbar Fallah Nejad et al, "The Natural Right from the Viewpoint of Farabi". *Philosophy of Religion* 17, no. 1, (2020): 23-48, doi: 10.22059/jpht.2019.268751.1005610

<sup>14</sup> Abu Nasr al-Fārābī, *Siyāsāt al-Madanīyah* (Tehran: Iranian Philosophy Association, 1979), 136.

<sup>15</sup> Some researchers have discussed this issue, e.g. see Nadia Maftouni, *Economics of Culture and Farabi Utopia Media*, (Tehran: Sourosh, 2022).

<sup>16</sup> Abu Nasr al-Fārābī, *Kitāb al-Millah wa-nuṣūṣ uḥrā* (Beirut: Dar al-Mashriq, 1991), 53-54.

<sup>17</sup> Adam Smith, *The Wealth of Nations*. (Retrieved from <https://www.rrojasdatabank.info/Wealth-Nations.pdf>, 2005).

<sup>18</sup> Meritocracy is also found in Avicenna's viewpoint. See: Avicenna, *The Politics*, (Baghdad: Alrushd, 1929), 42.

<sup>19</sup> Abu Nasr al-Fārābī, *Siyāsāt al-Madanīyah* (Tehran: Iranian Philosophy Association, 1979), 136.

<sup>20</sup> Abu Nasr al-Fārābī, *Siyāsāt al-Madanīyah* (Tehran: Iranian Philosophy Association, 1979), 137 & 158.

<sup>21</sup> Abu Nasr al-Fārābī, *Siyāsāt al-Madanīyah* (Tehran: Iranian Philosophy Association, 1979), 141.

<sup>22</sup> Abu Nasr al-Fārābī, *Siyāsāt al-Madanīyah* (Tehran: Iranian Philosophy Association, 1979), 141-143.

<sup>23</sup> Abu Nasr al-Fārābī, *Siyāsāt al-Madanīyah* (Tehran: Iranian Philosophy Association, 1979), 148.

<sup>24</sup> Abu Nasr al-Fārābī, *Siyāsāt al-Madanīyah* (Tehran: Iranian Philosophy Association, 1979), 148.

<sup>25</sup> Abu Nasr al-Fārābī, *Tanbīh 'ala Sabīl al-Sa'ādah* (Tehran: Sadra Islamic Philosophy Foundation, 2011), 93.

<sup>26</sup> Ford (1950) in his paper "Natural Law and the Pursuit of Happiness" also discussed natural law and happiness.

<sup>27</sup> John Locke, *Two Treatises of Government*, (London: Printed for Thomas Tegg; W. Sharpe and Son; G. Offor, and J. Robinson; J. Evans and Co.: Also R. Griffin and Co. Glasgow; and J. Gumming, Dublin, 1823).

<sup>28</sup> Avicenna, *Ishārāt wa Tanbihāt*, (Qom: Nashr al- Balaqah, 1997).

<sup>29</sup> Muslih al-Din Abu Muhammad Saadi Shīrāzī, *Bustan Saadi*, (Qom, Negaran Ghalam, 2014), 105.

<sup>30</sup> Abu Hamid Mohammad al- Ghazālī, *Al-Mustaṣfā min 'Ilm al-Uṣūl*. (Beirut: Dār al-Kutub al-'Ilmiyah, n.d), 174; Ibrahim bin Musa al-Shāṭibī, *Al-Muwāfaqāt*. (Cairo: Dar ibn A'fan, 1997): 18-19.

<sup>31</sup> Kurmanaliyeva (2021) also discussed about Natural and Divine law in al-Fārābī's view: see Ainur Kurmanaliyeva, "A Comparative Study of Reason and Revelation in Relation to Natural and Divine Law in al-Farabi and Ibn Rushd". *Reason, Revelation and Law in Islamic and Western Theory and History*. (2021), <https://doi.org/10.1007/978-981-15-6245->

<sup>32</sup> The discussion of natural rights and the objectives of Islamic law in Fārābī's intellectual system requires specific study.

<sup>33</sup> Abu Nasr al-Fārābī, *Siyāsāt al-Madanīyah* (Tehran: Iranian Philosophy Association, 1979), 155-156.

<sup>34</sup> Abu Nasr al-Fārābī, *Siyāsāt al-Madanīyah* (Tehran: Iranian Philosophy Association, 1979), 157.

<sup>35</sup> Abu Nasr al-Fārābī, *Siyāsāt al-Madanīyah* (Tehran: Iranian Philosophy Association, 1979), 161-162; Abu Nasr al-Fārābī, *Kitāb al-Millah wa-nuṣūṣ uḥrā* (Beirut: Dar al-Mashriq, 1991), 63.

<sup>36</sup> Abu Nasr al-Fārābī, *Siyāsāt al-Madanīyah* (Tehran: Iranian Philosophy Association, 1979), 161; Abu Nasr al-Fārābī, *Kitāb al-Millah wa-nuṣūṣ uḥrā* (Beirut: Dar al-Mashriq, 1991), 43.

<sup>37</sup> Abu Nasr al-Fārābī, *Siyāsāt al-Madanīyah* (Tehran: Iranian Philosophy Association, 1979), 162; Abu Nasr al-Fārābī, *Kitāb al-Millah wa-nuṣūṣ uḥrā* (Beirut: Dar al-Mashriq, 1991), 65-66.

<sup>38</sup> Abu Nasr al-Fārābī, *Tanbīh 'ala Sabīl al-Sa'ādah* (Tehran: Sadra Islamic Philosophy Foundation, 2011), 102-103.

<sup>39</sup> Abu Nasr al-Fārābī, *Kitāb al-Millah wa-nuṣūṣ uḥrā* (Beirut: Dar al-Mashriq, 1991), 57-59.

<sup>40</sup> Catarina Belo, "Alfarabi's Political Theology in The Virtuous City", *Islamic Political Theology*, (2021): 24.

<sup>41</sup> Abu Nasr al-Fārābī, *Kitāb al-Millah wa-nuṣūṣ uḥrā* (Beirut: Dar al-Mashriq, 1991), 49-52.

<sup>42</sup> William K. Wright, "Happiness as an Ethical Postulate". *The Philosophical Review* 17 no. 5, (1908): 518–528. <https://doi.org/10.2307/2177214>; Paul Bloomfield, "Morality is necessary for happiness". *Philosophical Studies* 174, (2017): 2613-2628. <https://doi.org/10.1007/s11098-016-0729-9>; Dan Haybron, "Happiness", *The Stanford Encyclopedia of Philosophy*, (2020): <https://plato.stanford.edu/archives/sum2020/entries/happiness>

<sup>43</sup> Abu Nasr al-Fārābī, *Kitāb al-Millah wa-nuṣūṣ uḥrā* (Beirut: Dar al-Mashriq, 1991), 52.

<sup>44</sup> Abu Nasr al-Fārābī, *Kitāb al-Millah wa-nuṣūṣ uḥrā* (Beirut: Dar al-Mashriq, 1991), 66.

<sup>45</sup> Abu Nasr al-Fārābī, *Siyāsāt al-Madanīyah* (Tehran: Iranian Philosophy Association, 1979), 144.

<sup>46</sup> Abu Nasr al-Fārābī, *Siyāsāt al-Madanīyah* (Tehran: Iranian Philosophy Association, 1979), 134.

<sup>47</sup> Avicenna, *Ishārāt wa Tanbihāt*, (Qom: Nashr al- Balaqah, 1997); Shahab al- Din Suhrawardī, *Majmu'a- I Musanafāt- Sheykh- I Ishāq*, vol. 1, (Tehran: Pajushgah- I Ulum- I Insani wa Mutali'at- I Farhangi Press, 2002) 467.

<sup>48</sup> Abu Nasr al-Fārābī, *Siyāsāt al-Madanīyah* (Tehran: Iranian Philosophy Association, 1979), 145.

<sup>49</sup> Abu Nasr al-Fārābī, *Siyāsāt al-Madanīyah* (Tehran: Iranian Philosophy Association, 1979), 146-147.

<sup>50</sup> This is the same phrase of Fārābī:

«ثمّ يبين أنّ هذه ليس يمكن أن توجد جميعاً في إنسان واحد و لا أن يستعملها إنسان واحد، بل إنّما يمكن أن تستعمل و تظهر بالفعل بأن تتوزّع في جماعة. و يبيّن أنّها إذا توزّعت في جماعة، فليس يمكن أن يقوم من يفوض إليه نوع من هذه أن يقوم بذلك و لا أن يستعمله دون أن يعاونه آخر بالنوع الذي فوّض إليه القيام به، و لا أيضاً ذلك يمكنه أن يقوم بما فوّض إليه دون أن يعاونه ثالث بالنوع الذي فوّض إليه القيام به. و أنّه لا يمتنع مع ذلك أن لا يوجد فيهم من لا يمكنه القيام بفعله الذي فوض إليه فārābī, 1991, p. 53.)

<sup>51</sup> Immanuel Kant, *Groundwork for the Metaphysics of Morals*. (New Heaven: Yale University Press, 2002): Retrieved from <https://www.earlymoderntexts.com/assets/pdfs/kant1785.pdf> Lara Denis, "Kant on the Perfection of Others". *The Southern Journal of philosophy*, 37 no. 1, (1999): 21-42;

<sup>52</sup> Abu Nasr al-Fārābī, *Siyāsāt al-Madanīyah* (Tehran: Iranian Philosophy Association, 1979), 152-153.

<sup>53</sup> Abu Nasr al-Fārābī, *Tanbihāt 'ala Sabīl al-Sa'ādah* (Tehran: Sadra Islamic Philosophy Foundation, 2011), 89.

<sup>54</sup> Abu Nasr al-Fārābī, *Siyāsāt al-Madanīyah* (Tehran: Iranian Philosophy Association, 1979), 163.

<sup>55</sup> Abu Nasr al-Fārābī, *Siyāsāt al-Madanīyah* (Tehran: Iranian Philosophy Association, 1979), 163-164.

<sup>56</sup> Abu Nasr al-Fārābī, *Tanbihāt 'ala Sabīl al-Sa'ādah* (Tehran: Sadra Islamic Philosophy Foundation, 2011), 92.

<sup>57</sup> Abu Nasr al-Fārābī, *Tanbihāt 'ala Sabīl al-Sa'ādah* (Tehran: Sadra Islamic Philosophy Foundation, 2011), 90.

<sup>58</sup> Naser Katouzian, "Ethics & Law", *The Journal of Ethics in Science and Technology* 2 no. 1-2 (2007): 85-88.

<sup>59</sup> Fārābī in *Kitāb al-Millah*, has equated the three matters of ethics, politics, and the objectives of Islamic Law with civil wisdom. In other phrases, they are all inside each other.

<sup>60</sup> Tomas Wedin & Carl Wilén, "Ancient equality against modern democracy: resources of critique in Hannah Arendt and Ellen Meiksins Wood". *Distinktion: Journal of Social Theory* 21, no. 1, (2020): 19-45, doi: <https://doi.org/10.1080/1600910X.2019.1653347>

<sup>61</sup> For a comparison of the concept of happiness in ancient and modern times, see Sylvester (2005) Wong (2020).