The Ontological Status of Religion

and Its Significance for Religious Freedom

RISALATUL HUKMI

FOREWORD:

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FOREWORD

This book combines two interesting debates in a creative way: the debate on whether or not religion exists, and the debate on whether or not the freedom of religion in Indonesia needs to be broadened to other expressions of faith, particularly those of minorities and non-recognized religions in Indonesia. In the first debate the author opts for social ontology. Religion exists, be it in a constructed way. In the second debate the author opts for a realist approach. Scholars do not need a definition of religion. They just need to acknowledge that religion has a power, be it in a beneficial or a harmful way. The author argues that if religion does not exist, freedom of religion cannot be guaranteed in the Indonesian constitution. Given the Indonesian context where not all religious believers have equal rights, this is an important insight.

As is the case with any scholarly work, this book answers some questions and raises new questions. Regarding the first debate, one can ask if one can equate constructionism and nominalism, as the author tends to do. Or, what exactly does it signify when the author says that religion is a social fact? Regarding the second debate, one can ask if cogency, seriousness, cohesion and importance of belief are enough as criteria for it to be protected, as the author claims in harmony with

the European Convention on Human Rights. The example of coffee shops in The Netherlands, might be clear. But what about circumcision? What about ritual slaughter? Do these practices deserve protection? Although there are many people who are very serious about them, the first practice contradicts the fundamental right of integrity of the human body, the second contradicts animal rights.

In Europe there are many debates about these issues. And it is questionable if one can solve these issues through a phenomenological approach only, as the author argues, thus without making a substantive judgment of certain beliefs in a theological sense and maintaining a strict separation of religion and state. Undoubtedly, the rights of minority religions need to be protected by the state, but not all religious beliefs need to be protected, however serious or cogent they are. Constitutional lawyers would argue that there are religious beliefs that don't deserve to be protected by the state, particularly those beliefs that undermine the constitutional state, or the state of law. Having said this, in my view the book is a valuable contribution to contemporary debates in Indonesia about religion and freedom of religion and it is highly recommended as a textbook, particularly in courses about topics such as religion and policy, religion and rights, religion and governance.

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To
Kalista

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INTRODUCTION

IN RECENT years, the shape of the discourse in religious studies has been dominated by social constructionist works. Now the concept 'religion' is therefore intensively disputed; does it truly exist? Is it real? According to social constructionists, the very notion of religion is genealogically unique to western modern civilization and is closely related to the history of colonialism (Dubuisson, 2003). It is intertwined with modernization and secularization which tends to separate 'religious' associated with irrationality from 'secular' associated with rationality (Asad, 2001). Conceptually, 'religion' has no reference in the real world and cannot pick out a distinctive phenomenon across cultures so that is analytically useless. For these reasons, religion is considered as an illusory category and the presence of religious studies is merely to maintain such a fiction (Fitzgerald, 2000).

The roots of this paradigm, by some scholars (Lynch, 2017; Schilbrack, 2017a; Stowers, 2008), is often attributed to Jonathan Smith through *Imagining Religion* (1982) although in fact much earlier, Wilfred C. Smith already had indicated such a paradigm in *The Meaning and End of Religion* (1964).

According to Jonathan Smith, there is no data for religion, "religion is solely the creation of the scholar's study. It is created for the scholar's analytic purposes by his imaginative acts of comparison and religion has no independent existence apart from the academy" (J. Z. Smith, 1982, p. xi). W. C. Smith also demonstrates that some ancient civilizations, such as Greece, Egypt, Aztecs, Iran, India, China, and Japan, did not have the concept which expressed 'religion' although they had some practices associated with the concept of religion, such as rites and divine concepts (W. C. Smith, 1964, p. 52).

On that matter, Timothy Fitzgerald argues that when we talk about religion in a non-theological sense, we are actually talking about culture with certain values that are institutionalized in ritual forms. Thus, religion as a separate category from culture, according to Fitzgerald, is analytically redundant (Fitzgerald, 1997, p. 93). In this presumption, Fitzgerald suggests that the word religion has absolutely no genuine analytic work and only refers to general illusion so that the word religion must be immediately abandoned (Fitzgerald, 2000: 11). A similar argument was also put forward by Teemu Taira (2013, p. 26) and William Arnal (2013, p. 128) which stated that the word religion is an empty signifier that does not have any reference and does not state anything because it is always constructed socially, historically, and ideologically.

Indeed, if we follow these criticisms, it would lead us to some consequential problems. At the theoretical level, we must reconstruct most of, if not all of, theories and methods in the study of religion. In the worst case scenario, as suggested by Fitzgerald, it is better to merge religious studies into cultural studies because what they produce is no different (Fitzgerald, 2000, p. 221). At the practical level, we would have

to withdraw the category 'religion' from all public policies and articles in the constitution, both domestic and international, as a distinctive regulated category. One might argue that, at the former level, it is worthwhile for scientific progress. Nevertheless, at the latter level, it could be problematic for social and political justice.

That is what I found in the new critics of religious freedom associated with the project of *Politics of Religious Freedom* (2015). In similar vein with social constructionists, they argue that introducing religion as a stand-alone category into the constitution and public policy is problematic. Positing religion specifically as a distinctive enumeration protected by the principle of religious freedom means that the state or court are able to define what religion is. Meanwhile, such a definition is also problematic since it implies inclusion and exclusion at the same time. For this reason, Danchin and Mahmood argue that the separation between the *forum internum* and the *forum externum* is a paradox because the state will not be able to limit the *forum externum* without judging the *forum internum*. It gives them an explanation why religious freedom, in many cases, tends to privilege the majority and disprivilege the minorities (Mahmood & Danchin, 2014a, p. 129).

These criticisms, indeed, are not entirely new. Some scholars (Nickel, 2005; Olsen, 2000; S. D. Smith, 1991) have argued that the concept of religious freedom is not indispensable. They argue that there are no satisfactory reasons to treat religion specifically in the constitution and public policy since they are already covered and protected by other and more universal freedoms. However, following Bielefeldt and Wiener's argument, that is not the case. Religious freedom is more than an exemption for people to hold and practice their religious

belief. It is a human-right-based response to the accumulated injustice experience of religious discrimination and persecution in various parts of the world (Bielefeldt & Wiener, 2020, p. 25).

For these reasons, religion needs to be justified as a real social category since it bears a distinctive causal power in society; it causes social discriminations and oppression. Prior to December 2003, for instance, Muslims in the United Kingdom were not legally protected from being able to wear the hijab or any other form of Islamic dress at school or at work. Elsewhere, a Sikh boy was completely justified by the House of Lords that he was discriminated against when he was refused to enter an independent school because he wore a turban. The reason behind this difference in justification is because Sikhs are considered as a distinctive racial group which is protected under the Race Relations Act 1976. Meanwhile, Muslims are not considered as a racial identity because the adherents are not limited to a particular ethnicity (Addison, 2007, p. 27). It indicates that religious identity differs from race as a social category and it matters in the discourse of social and political justice. Thus, the absence of the category 'religion' subsequently would delegitimize justice advocacy for such discrimination.

Accordingly, this book is aimed to provide an ontological account of religion. Following Kevin Schilbrack, Andrea Rota, and Thomas Lynch, I propose the realist social constructionism framework proposed by Sally Haslanger to justify that social construction of religion does not necessarily imply that it does not exist and is not real. As supporting theories, I adopt some realist approaches, that is external realism (ER), critical realism (CR), structural realism (SR), and promiscuous realism

(PR). In accordance with this ontological account, I defend religious freedom as a necessary concept to protect the minorities from any discriminations and coercions based on religious identities.

1

IS RELIGION REAL?

THIS chapter has three main objectives. First, to unravel some of the problems of defining religion; about the urgency, limitations, and political implications. Second, to consider the criticisms raised by social constructionists on the definition and category of 'religion' in religious studies. Third, to argue against social constructionist criticism and justify the ontological status of 'religion' as something real and conceptually useful, not only theoretically but also practically.

1.1 Definitional Problems of Religion

The skeptical view of the existence of religion, I argue, is rooted in the definitional problems of religion. As a concept or category, religion is considered not to have a stable and universal definition so that it cannot be used analytically to portray cross-cultural phenomena. Hence, in order to build an ontological account of religion we should answer the question whether the existence of religion requires a certain definition? Is the definition of religion really necessary?

There are at least three reasons, according to Peter Clark & Peter Byrne (1993, p. 3), why a definition of religion is needed as a basis for explanation and to build a theory about religion. First, it is assumed that a scholar must know in advance what is included in the scope of his theory. Such restrictions are needed to sort out what can be included and what is not by the word 'religion'. Second, the definition of religion is needed when a scholar wants to propose several interpretations of religion, which answers the question of why religion should be explained. Finally, defining religion is needed in relation to the universal claim of a theoretical building, justification that the proposed theory can explain religion uniformly.

The need for such a definition then becomes an illusory reason why essentialism in religion is tempting. Essentialism seems helpful to define religion firmly and universally in sorting out reality based on its essential properties. This kind of approach model is found in the establishment of classical theories about religion. The most popular one of such an approach can be found in the definition proposed by Edward B. Tylor (Clarke & Byrne, 1993, p. 3); that religion is a belief in spiritual beings. In such a definition, "belief in spiritual beings" is a keyword or essential property that determines whether something can be categorised as religious or not. A similar approach can also be found in some theories proposed by Frazer, Eliade, Rudolf Otto, including even functionalists such as Durkheim and Malinowski. As Melford Sphiro argued, the functionalists are actually a subclass of essentialism because they stipulate functional variables such as the promotion of solidarity, psychological consolation, and the like as the essential nature of religion (Spiro, 2004, p. 89).

However, following Clarke and Byrne (1993, pp. 4–5), no

one who defines religion for academic purposes believes that they have produced adequate definitions. According to Clarke and Byrne, the doubts are given rise to by these three things: 1) The ordinary use of the word 'religion' is conflictual and vague; 2) the meaning of 'religion' is genealogically ambiguous; and 3) divergences in academic goals and approaches to the definition of religion itself. That being the case, defining religion through an essentialist approach is considered problematic and should be questioned.

There are three objections that are commonly raised against essentialism. First, essentialism faces an empirical problem that presupposes mutable and indefinite reality and this is counterintuitive to the main claim of essentialism which tends to try to draw absolute abstractions of the essential properties of reality. Whereas "the notion of essential nature," Melford Spiro said, "is always vague and almost always non-empirical, such definitions are scientifically useless" (Spiro, 2004, p. 86). The most relevant example in this case, according to Spiro, can be seen in the study of kinship, which encounters endless problems regarding the essential nature of marriage, descent, corporality, and the like. In Africa, for example, there is a phenomenon similar to what is usually called a 'marriage', but both the bride and groom are women. Such cases are often considered by anthropologists as cases that are culturally limited, and therefore the definition of marriage that has been understood so far must be released. This kind of problem, for Spiro, poses a challenge to the comparative method in the humanities and social sciences because it presupposes continuous changes in definitions that are caused by vagueness or abstractness, and such things are scientifically useless. (Spiro, 2004, pp. 86–87).

This kind of objection is in line with what was stated by William C. Smith,

> We can speak with precision and elegance in our definition of imaginary constructs: an irrational number, or any of the notions in mathematics; model types in sociological theory; concepts in physics; abstractions of all kinds. In the realm of ideals something similar may perhaps obtain. The world of objective reality, on the other hand, is recalcitrant to our schematizations. We may define anything at all, provided only that it does not exist. Once we are talking of empirical objects, our minds move from the neatness of rational intelligibilities to the more humble approximations of an awareness of what always transcends our exact apprehension—and, in any case, is changing even while we try to apprehend it (W. C. Smith, 1964, p. 129).

In Smith's view, the essentialist fails to guarantee the tenability of the essential property on which the definition is based because the reality that we refer to in the concept of religion is always changing. "The diversity, mutable nature, and borderline cases of religion," says Muckadell, "make it difficult to provide a definition, but not impossible—especially not if one abandons the idea that a vague concept is always replaceable by a clear-cut concept with a simple, clear-cut definition (de Muckadell, 2014, p. 504)."

The second objection is that the definition consistently presupposes or even intertwines with political and social dominance. "The philosophical aspects of definitions," James Beckford said, "are complex and contested (Beckford, 1999, p. 23)." Religion, according to Beckford, also cannot be separated from such contestation. The definition or debate about the definition of religion among scholars clearly has very serious practical consequences for the practice of the life of an individual or group in their collective interests. For example, the contro-

versial question that often arises in the context of European history, "Could we categorise a 'cult' to be religious?" In the Indonesian context, for example, we also find questions, "is *'penghayat'* a religion?"

The inevitable implication, indeed, is the issue of exclusivism. Essentialism excludes groups or communities which do not fulfil the essential requirements to be categorised or recognised as 'religion' even though, in some ways, they have similarities. It did happen in the political history of 'religion' in Indonesia when the Ministry of Religion (1952) stipulated an essential definition of religion that it is required to be monotheistic, have a codified system of law for its followers, possess a Holy Book and a prophet, have international recognition, and its congregation should not be limited to a single ethnic group. In consequence, it excluded ethnic minorities who still practised their traditional religion and labelled them in the category of 'people who do not yet have a religion' *(orang jang belum beragama)* who stigmatically associate it with primitive backwardness. As Michel Picard notes, the residual result of such a political definition, for example, is the formation of Balinese Hinduism (Picard, 2005, p. 56).

It explains why Durkheim rejects the Tylorian definition, which postulates belief in supernatural beings as a legitimate reference to religion because apart from ignoring many facts that fall into the domain of religion, it will also exclude some great religions that do not, or probably do but in insignificant way, have a concept of gods and spirits such as Buddhism and Jainism. As quoted by Durkheim from Burnouf, "Buddhism takes its place in opposition to Brahmanism as a morality without god and an atheism without Nature" (Durkheim, 1995, p. 28). "What makes Buddhism a religion is that," says

Durkheim, "in the absence of gods, it accepts the existence of sacred things, namely, the Four Noble Truths and the practices that are derived from them" (Durkheim, 1995, p. 35).

The third objection is that the concept and category of 'religion' are socially constructed/social construction. This objection is raised by the constructionist theory which holds that religion does not exist in the real word—only in the imagination of scholars does it exist. These criticisms dominate contemporary religious studies and involve many scholars, including Jonathan Smith, W. Cantwell Smith, Russell McCutcheon, Timothy Fitzgerald, Daniel Dubuisson, Tomoko Masuzawa, and Nongbri. For these objections and criticisms, I shall extend it for a more comprehensive discussion in the following section.

1.2 Social Construction Theory of Religion

The need to provide an adequate definition and framework to study religion leads into what I called 'epistemological turn' or, in Richard King's terms, 'Copernican turn' in religious studies. He argues that it reminds us "to consider that the world of objects out there is framed by certain a priori categories that determine our perception of the world" (King, 2017, p. 5). This turn, I believe, is signified by the emersion of new criticisms in the discourse of theory and method in religious studies which I call the school of Social Constructionist Theory of Religion (SCTR). The very idea of these criticisms, as Schilbrack pointed out, is "that the concept of religion is manufactured, constructed, invented, or imagined, but does not correspond to an objective reality, out there in the world" (Schilbrack, 2010, p. 1112).

These criticisms, according to Schilbrack, can be sorted into three different levels. The first level of criticism is that the term 'religion' is a social construction. The very essence of this criticism is to say that religion is not a universal concept and cannot be used across cultures. The term religion is a product of Western modernism and has no equivalent term in various classical texts of cultures outside the modern West. The second level of criticism is that the term religion is a forced term and is not culturally neutral because it contains modern, Western, and Christian connotations. The third level of criticism is that the construction of religion is ideologically motivated. The term religion is thought to serve certain ideological purposes (Schilbrack, 2010, pp. 1112–1115).

I shall elaborate the three levels of Schilbrack's criticisms in several points: 1) Religion is not a cross-cultural category, because; 2) there is no reference for religion across cultures, meaning; 3) religion is solely invention, imagination, and construction from Western civilisation.

1.2.1 Religion Is Not a Cross-cultural Category

Apart from well-known religionist schools in the phenomenological studies of religion, such as Mircea Eliade and Rudolf Otto, many anthropologists and sociologists also consider that religion is a universal category found in cross-cultural phenomena. For example, Elizabeth Nottingham said that "the universality of religious behaviour among human beings may for practical purposes be assumed" (Nottingham, 1954, p. 1). The same claim was also made by Edward Norbeck (1961), Thomas Ford Hoult (1958), and Kingsely Davis (1949), who

said that religion is a universal cultural thing and permeates social life; where there are people, there is religion (Cohn & Klausner, 1962, pp. 28–29).

However, all of the above claims have begun to be questioned by scholars of religious studies such as Jonathan Smith, Wilfred C. Smith, William Arnal, Russell McCutcheon, Timothy Fitzgerald, and other scholars who believe that religion is not something universal and necessary in all cross-cultural phenomena. Of all the objections to the universality of religion, I note that there are two levels of understanding that are different but mutually supportive of each other regarding the position of their arguments. First, religion is not a universal phenomenon because not all cultures have the same concept or correspond to the concept of 'religion'. Second, religion is not a universal phenomenon because the concept of 'religion' is understood and used differently in each culture and is not interchangeable.

In *The Meaning and End of Religion*, W.C. Smith argues that every social community may have what modern scholars conceptualise through the term 'religion'. W.C. Smith said,

> Yet none, apparently, has traditionally had a name for that system. Nor have these groups a term for religion in general. Nor have these groups a term for religion in general. The persons concerned will say, 'It is our custom to…', but they do not further postulate and name their complex of observances, or see it either as one of a series, or as one distinct segment of their life. They perform their rites, relate their myths, uphold their norms, and experience their emotions, without analytic reflection or linguistic generalization. Religion in any objectified sense has not been an idea in the minds of these groups (W. C. Smith, 1964, p. 52).

Some ancient cultures, as W.C. Smith notes, that do not

have the concept of expressing 'religion' include Greece, Egypt, Aztecs, Tigris-Euphrates Valley, Iran (Persia), India, China, and Japan. W.C. Smith then concludes from these facts that the idea of 'religion' is an idea that is only found in modern Western civilisation (W. C. Smith, 1964, pp. 53–54).

W.C. Smith's claim is confirmed by, for example, a study conducted by Edward Antonio on indigenous African traditions. Antonio, in his research, demonstrates how indigenous peoples in Africa have no conception of what modern Western scholars envision as 'religion'. People from various cultures in Africa, such as Mozambique, Zimbabwe, and South Africa, never talk about or even have the concept of faith which is related to gods, spirits, and divinities as essential features in the discourse on religion. Antonio argues that there is no religious prototype that can be used for theorising religion in indigenous African traditions (Antonio, 2017, p. 148).

Referring to the investigation conducted by Naomi Goldenberg, the Bible, which is a religious scripture that has become the reference for constructing the category of 'religion', does not recognise the concept of 'religion' at all. "Religion," says Goldenberg, "is non-existent in biblical times and thus is a misleading and inaccurate descriptor, each one then ignores this insight and proceeds to employ the fiction that 'religion' is present in ancient cultures" (Goldenberg, 2019, p. 13). This argument is based on the finding that the phenomenon often referred to as 'religion' by modern scholars, in the context of the Bible, is not a distinctive phenomenon of social and political phenomena. The emergence of the concept of 'religion', according to Goldenberg, is only a consequence of efforts to separate religious entities and political entities in the modern Western world. Therefore, Goldenberg argues that "religion

ought to be understood as a term for displaced, marginalised government" (Goldenberg, 2019, p. 13).

W.C. Smith and Goldenberg's claims align with a study conducted by Brent Nongbri in *Before Religion* (2013). In the same vein as W.C. Smith, Nongbri also said that in some ancient civilisations, there were no terms or concepts that could be translated into religion. In the history of Mesoamerica, for example, there are no words that can be rendered into the concept of 'religion'. As Goldenberg points out, the concept of 'religion' is also not found in the ancient Hebrew and Aramaic traditions.

However, entering a slightly different second level of understanding from W.C. Smith, Nongbri found that in Chinese history, for example, the term *zongjiao* was known, which Japanese translators in the late 19th century proposed to be close to the concept of 'religion'. *Zong jiao* comes from the word *zong* (*shū* - Japanese) refers to 'sect', and *jiao* (*kyō* - Japanese) refers to 'teaching'. However, after Nongbri conducted an experiment by including the word religion in ancient texts containing the word, no appropriate meaning was found in several contexts. This translation problem is also found in several ancient concepts: Latin *(religio)*, Greek *(thrēskeia)*, and Arabic terms *(dīn, milla,* and *umma)*. From Nongbri's translation experiment, it was found that the terms in several cultures which are often associated with the closest meaning to 'religion' can never be used interchangeably because of the use of different concepts in each culture (Nongbri, 2013, pp. 25–26).

This is reinforced by Karamustafa in his study of the concept of *dīn* in Islam as an alternative to the concept of religion. Karamustafa concludes:

> With a rich and long history, Islamic *dīn* is certainly a pow-

> erful reminder that "religion" is not a naturally universal category. At the very least, close scrutiny of *dīn* leads to a serious reconsideration of the legitimacy of characterising Islam as a "religion." Indeed, it is clear that "religion," in any of the specific forms it took in Western history, is not an automatically suitable category to use in describing Islam (Karamustafa, 2017, p. 169).

Rushain Abbasi argued that, long before the emergence of the modern West, pre-Modern Muslims have had a concept similar to the modern notion of 'religion' called *dīn*. However, unlike Nongbri and Karamustafa, Abbasi quite confidently claims that the meaning of *dīn* is "straightforwardly analogous to the common understanding of 'religion' today. It gives an explanation why one can accurately and usefully translate *dīn* as 'religion' in a variety of contexts, and why it serves as a much better translation than alternatives like law and tradition" (Abbasi, 2021, p. 104).

We can draw a line of argument based on the studies that were conducted by W.C. Smith, Nongbri, Goldenberg, Karamustafa, and Abbasi, that the concept of 'religion' is a concept that cannot be used in cross-cultural studies because there are no similar concepts or phenomena that can be properly categorised in that concept. The only native concept that has an analogous meaning to 'religion', as stated by Abbasi, is *dīn* in Islamic vocabulary. However, Abbasi's argument obviously cannot entirely refute SCTR's claim that the concept of 'religion' cannot be found and used in cross-cultural contexts, because if only Islam has a native concept that correctly corresponds to the meaning of 'religion', it will raise new suspicions that Islam also had a great influence on the conception of 'religion' in the West; not just Judaeo-Christian, as Fitzgerald claimed (1997, p. 95). This suspicion is quite justified if

we look at the findings of W.C. Smith. He stated that the conceptualisation of 'religion' can be traced back to the Christian era that was developed by several local groups such as the Manichees. It was then taken over by the Muslim community and brought along in the expansion process so that it entered the flow of Western civilisation through Jewish and Christian traditions (W. C. Smith, 1964, p. 110).

1.2.2 There Is No Reference for Religion

The translational problem raised by Nongbri and also the facts discovered by W.C. Smith, Goldenberg, and Karamustafa support other claims of SCTR advanced by, for example, Jonathan Smith in *Imagining Religion*,

> While there is a staggering amount of data, of phenomena, of human experiences and expressions that might be characterised in one culture or another, by one criterion or another, as religious—there is no data for religion (J. Z. Smith, 1982, p. xi).

However, the important question that needs to answer, as posed by Barton, is: What does it mean when SCTR says that 'there is no data for religion', or in WC Smith's sense, 'there is no such entity [religion]', although we can easily find phenomena, human practices, and expressions that can be characterised as religious? Citing Nongbri, Barton says that the problem is not that there are no sacred practices, practices attributed to gods, or even so-called religious experiences, but that in some cultures—especially ancient cultures—such practices have never existed apart from everyday life (Barton, 2016, p. 4).

Within the framework of such an understanding, we can then understand the argument put forward by Fitzgerald.

"When we talk about religion in a non-theological way," he said,

> we are fundamentally talking about culture in the sense of ritualised institutions imbued with meaning through collective recognition. Further, I suggest that the proposal made by some writers that religion, while part of culture, is a distinct subcategory of culture, fails. In that case, I argue that the word 'religion', with its theological and supernaturalist resonance, is analytically redundant. It picks out nothing distinctive and it clarifies nothing. It merely distorts the field (Fitzgerald, 1997, p. 93).

It all becomes obvious that what SCTR means by 'there is no data for religion' or 'there is no such entity [religion]' is that religion is not an entity that can be isolated from other cultural phenomena. Therefore, making it an entity that can be referenced in reality is a mistake.

This mistake, according to W.C. Smith, lies in the reification process from an adjective (religious) to a noun (religion/religions) or 'mentally making religion into a thing' so that it is then conceptualized as a systematic and objective entity. W.C. Smith believes that the phenomenon we call religious undoubtedly exists. However, the idea that they are in themselves a distinctive entity is an analysis that cannot be justified (W. C. Smith, 1964, p. 21). In other words, as Asad emphasised in his review of *The Meaning and End of Religion*, "to say that religion is reified is to claim that something belonging only in the world of imagination is mistaken for something that exists in the real world… because, for Smith, personal piety, being an attitude of mind and heart, cannot properly be thought of as a thing" (Asad, 2001, p. 209).

However, the next question from Asad was, "if thing simply means a referent in the world, why cannot personal piety

be a thing?" Asad argues that the problem is that the concept of reification referred to by W.C. Smith was confused by Weber's concept of the routinisation of charisma. The confusion, according to Asad, can be found when Smith commented on Sikhism, which underwent a gradual process of reification, that is preaching of vision, the emergence of followers, organisation of a community, positing of an intellectual ideal of that community, the definition of the actual pattern of its institutions. In that comment, according to Asad, Smith confused the idea of systematising doctrine or practice with the idea of mistaking a word for the thing it names (Asad, 2001, p. 209).

On that matter, Asad argues that Smith missed a critical analysis related to the concept of secularism. For Asad, "religion is a modern concept not because it is reified but because it has been linked to its Siamese twin secularism" (Asad, 2001, p. 221). This claim, indeed, can be further justified if we relate it to Nongbri's previous argument that ancient culture does not have a concept that corresponds to the meaning of 'religion' because there is no separation between 'being religious' and 'not religious'. In that sense, we can then understand Asad's argument that modern secularism has a key role in the construction of the concept of 'religion' through the idea of separation between the religious and the secular, or in Nongbri's argument, "what is modern about ideas of 'religions' and 'being religious', is the isolation and naming of some things as religious and others as not religious" (Nongbri, 2013, p. 4). It is precisely in such assumptions; that the category of religion has no reference to distinctive cultural phenomena and that this conceptualisation is closely related to the birth of the idea of secularism in the modern European socio-political climate, SCTR seems to agree that 'religion' is only a construction,

imagination, and invention from the West.

1.2.3 Religion Is Invented, Imagined, and Constructed

The historical fact that the concept of religion does not refer to and is not found in any cross-cultural phenomenon seems to lead J. Z. Smith to the conclusion that "religion is solely the creation of the scholar's study. It is created for the scholar's analytic purposes by his imaginative acts of comparison and generalisation. Religion has no independent existence apart from the academy" (J. Z. Smith, 1982, p. xi). The similar claim is stated by McCutcheon in *Manufacturing Religion* that, "religion is no more and no less a scholarly construct than are politics, economics, culture, plants, continents and mammals" (McCutcheon, 1997, p. 207).

Here SCTR is clearly in a diametrical position with religionist *sui generis*, such as Eliade, who presupposes that religion is uniquely an ahistorical reality that can only be recognised if it is studied as something religious, then studying it through another approach is a mistake because it is irreducible (Eliade, 1963, p. xiii). Other religionists, such as Rudolf Otto, also state the same thing that religion is rooted in feelings about the numinous which carry with it its moral burden. Otto argues,

> It too is not to be derived from any other feelings, and is in this sense 'unevolvable.' It is a content of feeling that is qualitatively sui generis, yet at the same time one that has numerous analogies with others, and therefore it and they may reciprocally excite or stimulate one another and cause one another to appear in the mind (Otto, 1958, p. 44).

This kind of *sui generis* approach dominated the study of religion in the late 19th to 20th centuries. However, accord-

ing to McCutcheon, this was due to the mechanism created *a priori* to deny the legitimacy of naturalistic explanations of religious phenomena. Religious discourse has been constructed, legitimised, and authorised through exclusive claims ranging from the autonomy of religious phenomena to the autonomy of methods and disciplines themselves. This kind of work process, according to McCutcheon, is constructed and maintained through ideological and rhetorical strategies such as historicization, universalisation, and decontextualization (McCutcheon, 1997, p. 28).

This proposition, it seems, was later apportioned by Timothy Fitzgerald in *The Ideology of Religious Studies* (2000). Fitzgerald criticizes religious studies as an academic field of study, which is assumed to have its own area, object, and approach, as nothing more than a form of ecumenical theology by coining 'religion' as an analytically useless concept for cross-cultural studies. As he wrote in his preface,

> one central aim of my argument is to show how religious studies, as agency for reproducing a mystifying ideology, attempts to construct a decontextualized, ahistorical phenomenon and divorce it from question of power [...] to show how the modern concept of religion, as part of western ideology, has been exported to non-western countries in the context of colonialism (Fitzgerald, 2000, p. ix).

The construction of 'religion' and 'religions' as objects of cross-cultural study, according to Fitzgerald, cannot be separated from the historical processes of western imperialism, colonialism, and neo-colonialism. This historical process has created a distinction, which is full of ideological bias (especially western Christian), between the realm of religion and the realm of non-religion, which at the same time creates the imagination of the secular world about society and the market as a result of the

association of individual freedom. Hence, Fitzgerald suggests that the invention of the modern concept of 'religion' and 'religions' has a close relationship with the modern ideology of individualism and capitalism. Fitzgerald also emphasised, "if religions could not be found then they were invented, along with western individuals, law courts, free markets, and educational systems" (Fitzgerald, 2000, pp. 8–9).

Accordingly, the very notion of religion, as stated by Daniel Dubuisson, is an entirely unique idea to Western civilisation. All the questions that arise about religion cannot be separated from the intellectual history of the West, which in its history has spawned a complex system of reflection, from philosophy to theology, from anthropology to sociology or psychology, which led to the universalisation of concepts that were born from the womb of Christianity and applied to all other cultures (Dubuisson, 2003, p. 9). Tomoko Masuzawa reinforces this criticism in *The Invention of World Religion* (2005). Masuzawa reveals that the concept of 'world religions' cannot be separated from the context of European intellectual history that tries to build a system of classification and categorisation, with binary (East and West, biblical religions and non-biblical, prophetic, and wisdom), tripartite (Near East, South Asia, Far East), or even multivarious divisions, which aim to distinguish the West from the rest. From this genealogical analysis, Masuzawa argues that the expansion process of world religions is not a late recognition or discovery of previously unknown traditions but an academic work that serves a variety of rhetorical purposes that help sustain Christian hegemony and universalism (Masuzawa, 2005, pp. 2–3).

To sum up, SCTR agrees that the very idea of religion is a product born from the history of Western intellectuals; it

is invented, constructed, and imagined by Western scholars. Therefore, the concept of religion is a completely unique idea to Western civilisation and is too historically and culturally contingent to be used as a basis for comparative studies. They are of one mind to claim that religion does not exist independently from academia, but only a few of them go so far as to argue that the category 'religion' should be abandoned and replaced by other categories such as 'faith' and 'cumulative tradition' (WC Smith), 'culture' (Fitzgerald), and 'cosmographic formation' (Dubuisson)—Kevin Schilbrack and Thomas Lynch call these tendencies the abolitionists of religion.

1.3 Realist Social Ontology of Religion (RSOR)

The 'epistemological turn' that was widely promoted by SCTR, of course, raises serious questions about the ontological status of 'religion'; if religion is not a thing, has no reference in the real world, then religious studies have no object of study, or if religion cannot be defined or should not be defined, then religion should not be the object of study. It is in the formulation of this question that the ontology, quoting Stanley Stowers, becomes relevant as an antidote for naive idealism that believes everything only exists in the mind (Stowers, 2008, p. 434). A good account of religion's ontology, according to Stowers, can provide a justification for the question "what does religion consist of?" without falling into the trap of anti-realism. This ontological ontological manoeuvre was provided by several scholars such as Kevin Schilbrack, Thomas Lynch, Michael Stausberg, Andrea Rota, and Steven Engler which I shall later call as proponents of the Realist Social Ontology of Religion

(RSOR).

The main claim of RSOR, as I noted, is that 'socially constructed' and 'real' are not mutually exclusive. In other words, being a constructionist as well as a realist about religion is not impossible because the two are compatible (Lynch, 2017; Rota, 2016; Schilbrack, 2017a). That being the case, the ontological account of religion is important because, as Engler (2005) stated, it can justify the philosophical foundation of social constructionism in the misleading academic study of religion. Engler argues that "scholars of religion have generally misunderstood constructionism as being necessarily relativistic." This, according to Engler, leads to a false dichotomous opposition in metaphysics between realism and anti-realism: Theological and phenomenological views consider that talking about 'religion' corresponds to religious phenomena, while the constructionist view considers that discursive and social relations mediate talk of 'religion'. Supposedly, according to Engler, being a realist and constructionist at the same time is not impossible because the constructionist position is not necessarily anti-realist (Engler, 2005, p. 29). Schilbrack (2010, 2012, 2013, 2017a) also put forward a similar argument in his several writings. Schilbrack argues,

> the fact that 'religion' is socially constructed does not imply that it does not refer to a thing (namely, a social thing), and therefore, it does not imply that the term is analytically useless. Similarly, the fact that the concept of 'religion' is co-emergent with the concept of the secular and that it is a product of specific ideologically loaded events do not lead us to an eliminativist conclusion (Schilbrack, 2012, p. 101).

However, how can the above argument be justified? So far, I note that the RSOR proposes at least three ontological strate-

gies. First, religion can be justified as a real entity through the Bhaskarian critical realism argument. Second, religion can be justified as a real social fact and has an objective reference using the external realism argument proposed by Searle. Third, the concept of religion can be justified as real and valuable through the structural realism approach proposed by Sally Haslanger. I shall describe these three strategies and argue further in the following subsections to answer the ontological skepticism proposed by SCTR and provide an ontological foundation and justify the ontological status of 'religion'.

1.3.1 Critical Realism (CR) Approach

The main claim of critical realism (CR) is constructed on the assumption that one cannot rephrase questions about the existence of the world and the nature of reality into questions about human behaviour and the ability to construct knowledge. In Roy Bhaskar's account, such a reduction leads to an 'epistemic fallacy', which is a mistake that occurs because ontological postulates are completely reduced to an epistemological problem. This fallacy must be avoided because it creates confusion between the ontological order and the epistemic order, which consequently cooping the world or reality into a universe that is accessible to human thought and understanding (Bhaskar, 2008, pp. 35, 242).

This mistake seems to have been made by SCTR when claiming that religion never existed because there were no corresponding concepts in cross-cultural phenomena. This claim, according to Schilbrack, is an 'anachronistic objection' because it presupposes a concept born in a certain historical context as the only anchor of reality. For Schilbrack, the absence of

an analogous concept of 'religion' in a particular society does not imply that they do not have practices and beliefs that can be categorised as religion because "religion can operate as an unconceptualized, systemic feature of the society" (Schilbrack, 2017a, pp. 10–11). Likewise, the political system, the economic system, sports, and so on; they exist without any concept used in a particular society. In other words, a society can be said to practice a certain religion even though they do not have a name or concept for what they do, just as we can say that society adheres to a system of monarchy, democracy, oligarchy, and so on, even though they do not have a name or concept of the practice.

To justify the above claim, Schilbrack has recourse to the distinction of philosophical dimension in (social) science proposed by Bhaskar; the transitive and intransitive dimensions. The transitive dimension, as adapted by Bhaskar from critical naturalism in the philosophy of social science, emphasises that all knowledge is a human product. In other words, this approach is appropriating the constructivist view in the study of religion that the category of religion is a product of history and academic construction. However, as Bhaskar adapted from transcendental realism, science also has an intransitive dimension that presupposes a structure in the world which is an object of knowledge that is independent of the mind. This distinction, according to Schilbrack, is very important to justify how religious studies can investigate social structures 'out there' in the world without denying that knowledge about these structures is a classification and construction of humans working under a certain logic of power. Thus, "the statement that religion is a product of the imagination," Schilbrack said, "does not state that religion is unreal or illusory but instead

points to the kind of real thing that religion is" (Schilbrack, 2017a, pp. 8–9).

In that case, Schilbrack then proposes three reasons why the claims of social constructionists are unacceptable: First, the idea that we cannot use concepts to analyse and describe certain socio-cultural practices if they do not possess the concept indirectly isolates them not only from internal criticism but also from external interpretation. In other words, the idea precludes the possibility of the academic study of cross-cultural phenomena. Second, if a culture does not have a concept implying the entity which the concept refers to does not exist, it is the same to say that Pueblo had no religion because they have no concept for it; as well as they had no economy or politics or gender. Third, suppose the existence of something depends on the existence of a concept in culture; it means that Pharaoh Ramses II could not have been infected with tuberculosis because tuberculosis is a modern western concept. Schilbrack labels such claims as linguistic determinism, which is the tendency to believe that language is the boundary of the world, which according to Schilbrack, is self-referentially incoherent (Schilbrack, 2012, pp. 102–103).

In his response to Schilbrack, Fitzgerald does affirm that Schilbrack is right. Although each of these categories has a different history and discursive application, for Fitzgerald, they both form a powerful imaginary world because the world is treated as if it were real. Schilbrack's mistake, according to Fitzgerald, is that he is trapped in the fallacy of 'imagining a classification as a thing' (Fitzgerald, 2013, pp. 104–105). However, both of them, I argue, are stuck with the referential ontology tendency, which assumes that something is only real if it has references in the world, which is implausible for social

reality. Such an assumption then leads Fitzgerald to the position of a deflationist ontology by stating that everything that is socially and ideologically constructed is not something real. It is in a similar case with Schilbrack; because he presupposes that there is always something independent of the construction and conceptualisation scheme, Schilbrack is trapped in essentialism by stating that religion exists and is real because it has a reference, that is a form of life attributed to superhuman beings or the super-empirical world. Hence, we need another strategy to justify the mode of existence of social reality as real without falling for essentialism.

1.3.2 External Realism (ER) Approach

Social reality, indeed, has a different mode of existence from physical reality. One cannot refer to concepts of social reality as a 'thing', much less as something final, unchangeable, and unevolvable. Therefore, we need a different ontological strategy to justify social reality as something existing, real, and independent of one's mind. We need a theory of how the social world is formed and constructed.

John Searle is a well-known philosopher who makes a strategic and comprehensive offer to understand this problem. He lucidly and vigorously defends and presents an obstinate apologia for realism in social ontology. Searle put forward a basic claim that: "there exists a real-world that is totally and absolutely independent of all of our representations, all of our thoughts, feelings, opinions, language, discourse, texts, and so on" (Searle, 1999, p. 14). On that account, thus, this strategy can be justified as the most plausible step to answer the ontological skepticism promoted by SCTR because: First,

as stated by Stowers (2008, p. 434), "object of religion is a subset of human social ontology." That is, to build an ontology about 'religion' we need an ontology about social reality; in short social ontology. Secondly, to justify 'religion' exists in the real world, we need to be realistic about social facts.

First, social ontology is an ontology about social reality. In other words, to build an ontology about religion, one needs to justify that religion can arguably be accepted as a social fact. The problem is, if we assume that religious entities are anchored in one's religious experience while the experience itself is subjective and personal, how then can we justify that it is real and exists? According to Searle, something can be said to be a social fact if it involves the collective intentionality of two or more human or animal agents (Searle, 2006, p. 16). That being the case, the only alternative, as proposed by Jeppe Jensen, is to reconstruct the private nature of religious experience to become a public affair. It means that religion must shift from the subjective realm to the inter-subjective arena of action, communication, and discourse (Jensen, 2003, p. 413). On that matter, collective intentionality as one of the basic nature of the social-institutional reality proposed by Searle becomes relevant. In this principle, we can justify religion as a social fact if there is intentionality, such as the intention to perform certain rituals or even the intention to believe in something, which is shared by different people, so that religious experiences that were only subjective can be justified as inter-subjective experience.

Second, as Searle said, the basic claim of ER is "that there exists a real-world that is totally and absolutely independent of all of our representations, all of our thoughts, feelings, opinions, language, discourse, texts, and so on" (Searle, 1999, p. 14).

The problem is, if the existence of religion depends on collective intentionality, while intentionality depends on the mind and the representation of the subject, isn't it then that religion is never independent of thought? "The whole analysis," Searle wrote, "presupposes a distinction between facts dependent on us and those that exist independently on us, a distinction I originally characterised as one between social and institutional facts on the one hand and brute facts on the other" (Searle, 1997, p. 15). "Roughly speaking," Searle said, "we can say that the social sciences are about observer-relative facts; the natural sciences are about observer-independent facts" (Searle, 2006, p. 13). Therefore, Searle distinguishes between ontological objectivity/subjectivity and epistemic objectivity/subjectivity. The existence of an ontologically subjective fact, meaning that it depends on subjective experiences in mind (e.g., pain), while ontologically objective existence does not depend on anyone's thoughts (e.g., mountains). In such a distinction, we can say that social facts are ontologically subjective because their existence is dependent on thought. Nevertheless, we can still justify it as something epistemically objective because the role of collective intentionality in the production of social reality cannot be reduced to the individual mind. As Schilbrack put it,

> They are ontologically subjective in the sense that they require human subjectivity in order to exist; they are brought into existence by and constitute to depend on collective human agreement. But socially dependent facts are also epistemically objective in the sense that the facts that make them true are independent of what individual person thinks (Schilbrack, 2010, p. 1119).

Such distinction seems to have been used successfully by Andrea Rota (2016) to solve emic-etic problems, namely the

problem of intentionality, objectivity, and comparison, in the study of religion. Rota thinks that Searle's ontology framework helps us to understand that the emic approach to religion does not necessarily presuppose an insider position because the object of the study is collective intentionality, which in Searle's view, epistemically does not depend on one's position as an insider. As Mostowlansky and Rota argue, emic and etic analysis is always the product of second-order observers (Mostowlansky & Rota, 2016, p. 329). Therefore, "at the same time," says Rota, "it allows a comparative approach in which 'religion' is used as an etic category; as such, 'religion' would not be a matter of perspective but a matter of theoretical reflection" (Rota, 2016, p. 441).

1.3.3 Structural Realism (SR) Approach

Structural realism (SR) is the last strategy, complementary or even the most effective so far, used by RSOR to justify that religion is a real social fact. This strategy was proposed by Thomas Lynch in his discussion of the intersection of discourse between religion and race using the realist framework promoted by Sally Haslanger. As is the main concern in Haslanger's philosophy, the existence of religion, according to Lynch, can be justified as we justify the existence of race and gender. In other words, religious studies are as important as gender studies and critical race theory (Lynch, 2017, p. 298).

To justify this claim, Lynch first appreciates what has been done by Schilbrack through a critical realism approach. Lynch notes that there are three important points that Schilbrack proposes: First, religion is undoubtedly real even though it is historically contingent and socially constructed. Religion

is real, such as sexism, colonialism, imperialism, and so on. Second, the concept of religion allows one to do things. It is not solely a matter of 'truth' about what we conceptualised, but also a heuristic tool that makes religious studies a field that allows the plurality of interpretations and explanations with various approaches and methods. Third, defending the concept of religion (retentionist) does not mean denying that the concept of religion has been externally imposed, invented, constructed by (European) scholars (Lynch, 2017, pp. 286–287).

From these three points, Lynch's main claim is clear that, after all, religion exists and is real. However, in contrast to the CR and ER approaches which emphasise the philosophical distinction between ontological and epistemic domains, the important argument offered by SR is to see the existence of religion through the concept of 'power'; religion exists and is real because it has powers that work objectively in socio-political life, such as oppression and discrimination. On that account, Lynch argues that the ideological construction of religion does not necessarily diminish their reality. "Religion," says Lynch,

> like gender and race, is embedded in the framework and norms of law, politics, and culture. That embeddedness is intrinsic to its ideological function. Thus, even if the category 'religion' is ideological, it is all the more reason to continue to use the framework of religion, to render visible what the term religion obscures (Lynch, 2017, p. 296).

In short, religion undoubtedly exists and is real because it does play a role in society. Hanslanger's philosophy, says Lynch, shows that "it is impossible to analyse forms of oppression and discrimination without talking about the knowledge and vocabulary that enable such oppression and discrimina-

tion" (Lynch, 2017, p. 297). That is why we should defend the concept of religion because the concept plays a role in some causalities in society.

In that assumption, Lynch argues that being an abolitionist about religion would fail to address the complex issues surrounding the concept and amputate one's ability to speak of the 'powers' and hierarchies that certain ideologies constantly maintain. The fact that religion is ideologically constructed should not imply that religion does not exist. It is the ideology, to reformulate it, that provides an anchor and 'power' for religion to exist and be real as a social cause. Therefore, Lynch argues that religion as a concept should be preserved, at least for the time being, as long as the concept still has the 'power' that enables certain social and political practices (Lynch, 2017, p. 295).

However, Schilbrack does not seem to agree with such a position, because as Lynch concludes, his position presupposes a 'gradual abolition' of religion. According to Schilbrack, Lynch forgets that Haslanger distinguishes between 'distinction' as an epistemic linguistic or conceptual act with 'difference' as an ontic fact on which distinction rests on it. Lynch's thesis, Schilbrack argues, does not attribute the categories to what is categorised, as race refers to colour, and gender refers to sex. Lynch only portrays the categories without associating them with the things that are being categorised. In that case, according to Schilbrack, Lynch drops Haslanger's realism about ontic difference and merely concerns about linguistic or conceptual acts in epistemic distinction. According to Schilbrack, Lynch wants to abolish the epistemic or linguistic domain of religion, and Schilbrack intends to retain the ontic one. That is the reason why Schilbrack then put Lynch into the anti-realist

scholars who argue that the concept of religion does not refer to anything in the real world because, as Lynch said, the referent of religion is created by the action of using it (Schilbrack, 2017b, pp. 2–4).

In favour of Lynch's position, I argue that Schilbrack's criticism is inaccurate because he presupposes realism solely in referential ontology, which holds that the meaning of a word or concept rests on what is referred to out there in the world. In other words, one can justify something to be real if it refers to something that exists in the world and that existence is independent of any conceptualisation scheme. It explains why Schilbrack argues that religion is real because the concept refers to "forms of life predicated on superhuman beings and powers [...] all of which existed in history prior to and independent of the concept religion" (Schilbrack, 2017b, p. 3). Schilbrack seems to have forgotten that one can also justify something as real with a framework of understanding structural realism, which presumes that something has power and plays a role in society. Religion is real because it has a causal power to change individuals, people, and society, to construct certain cultures, which one cannot reduce to other forms of power such as politics, economics, and so on.

1.4 Pluralist Account of Religion: Realism without Essentialism

It has been argued in the first section that there is no satisfactory and unproblematic definition of religion. Any kind of definition, whether essentialist or functionalist, always presupposes some essential properties that must be fulfilled to be categorized as religion. Consequently, indeed, it would include

some and exclude others. Thus, if we commit to be a realist about religion, the question that would arise of course is what do we mean by religion? Some realists, such as Schilbrack, may hastily answer by defining it as a 'form of life predicated to a super-empirical world'. However, through such a definition, Schilbrack is trapped in the problem of essentialism. Hence, my suggestions, we should first ask whether being a realist about religion necessarily commits to any certain definition of religion?

Indeed, metaphysical realism is commonly argued that it commits to any kind of essentialism (Lowe, 2008, p. 10). According to this view, being a realist about religion requires an essentialist definition to identify something as a real and mind-independent object. I would not employ this account by all means. Rather, I suggest that John Dupré's account on pluralist or promiscuous realism is worth taking into consideration. Dupré argues that "there are countless legitimate, objectively grounded ways of classifying objects in the world" (Dupré, 1993, p. 18). Following Dupré's argument, we can actually define religion in many ways, and each of these definitions is equally legitimate depending on the intended purpose of the definition.

On that matter, I argue that metaphysical realism does not necessarily imply an essentialist view, but it does the other way around; the relation is not reciprocal. Let's say, redness is undoubtedly real, in a sense, we can instantiate many red objects; apple, tomato, strawberry, etc. Yet, what is red actually? Are apples redder than tomatoes, are strawberries less red than apples? We cannot actually provide an essential definition of the colour red, and many other things, even though they are real. That being the case, we then created many red

colour classifications to refer to something more specific such as maroon, barn red, scarlet, redwood, crimson, carmine, and so on.

In light of such an assumption, following Dupré's account, I suggest that religion should be seen as a family resemblance concept. As originally founded by Wittgenstein, the very idea of family resemblance was introduced in order to overcome the traditional doctrine of essentialism that all references to a concept or category require common essential properties. In contrast, Wittgenstein argues that all the entities that belong to a concept do not necessarily have something common, but they are related to each other in many ways (Wennerberg, 2008, p. 107).

This family resemblance approach to religion, in fact, has been proposed by several scholars, such as, Robert McDermott (1970), Benson Saler (1999), and Victoria Harrison (2006). According to this view, the prerequisite of the category should never be about the shared essential properties, rather it should be about the similarities. In other words, things are classified as religion not because they share essential properties, but because they have overlapping similarities. Buddhism can be categorized as a religion not because it has common essential properties as Christianity or Islam, but because there are overlapping features among them, such as, rituals and the doctrine of salvation. Such features do not have to be possessed by all religions since every religion shares different similarities and there is no feature that is common to all religions (Mcdermott, 1970, p. 397).

However, the common proposed objections are how is the concept of religion bounded? Can we set the boundary between religion and non-religion? That is exactly what Fitz-

gerald problematises. Fitzgerald argues that the idea of family resemblance is tenuous, in a sense, does not contribute anything to the building of theory, but only makes the definition of religion vague, vast, and open-ended. In such a definition, argues Fitzgerald, we cannot explain how religion differs from ideology or symbolic system in general. As a consequence, relating to the ultimate problems of human life, family resemblance would fail to justify any group and its cultural system that deserves attention and protection (Fitzgerald, 1996, p. 232).

Indeed, Wittgenstein has anticipated this problem and states that we can actually draw such a line as far as necessary. However, following Wittgenstein's argument, for what? Wouldn't such boundaries someday be problematic too? (Wittgenstein, 1968, p. 33). Let's say, at this time we limit the definition of religion to the extent that it has rituals and sacred concepts, aren't we also required to define the meaning of ritual and sacred? Meanwhile, the meanings of these words are also highly contingent over time and culture. The meaning of the concept of ritual and sacred in ancient Greece was clearly different from its meaning now and may be different in the future.

Accordingly, I argue that such definitional problems do not necessarily exhaust the very existence of religion. Religion as a socially constructed category is somehow real, not because we can single it out from other cultural aspects of human life, rather because it becomes a historical facticity we live on. Although, say, it is part of a certain ideological project and the like, it has undeniably become part of the social reality where it has power and plays a role in shaping human behaviour, even the structure and patterns of social interaction. We do not

really need an analytical definition of religion for the study of religion to work. It might be occasionally needed only in a pragmatic framework, in a sense, the definition can help us to solve any problems in our social life.

1.5 Conclusion

Needless to say, it is true that religion is a social construct, in the sense that its existence is not independent of the human mind. However, there are several misleading conclusions drawn from SCTR's criticisms. Jonathan Smith, for instance, stated that "religion has no independent existence apart from the academy," or Fitzgerald concluded, to paraphrase it, that "religion is a western-modern concept and not cross-cultural category so it does not pick out anything from across cultural phenomena, meaning we have to abandon the category and close the religious studies department because it has no object to study." On that matter, the ontological account of religion becomes crucial to justify the ontological status of religion; its mode of existence, its ontological dependencies, and its relation to epistemic status.

It has been argued that the mode of existence of religion as a social fact is completely different from the mode of existence of the robust fact in natural science. It is a truism that social reality is undoubtedly constructed by human beings. In other words, its existence depends on human thoughts and behaviour. However, the existence of religion does not depend on academic construction, as Jonathan Smith stated. Religion does exist outside of academic construction, that is in collective intentionality that exists in groups or communities that share the same beliefs and practices. In some cases, its

existence is assured by certain ideological hegemony. The collective intentionality is able, to a certain extent, to form a social identity that has a role in social mechanisms such as; solidarity, moral submission, or even repression and discrimination.

Thus, realist social constructionism shows us that being a social constructionist of religion is not incompatible with being a realist. The fact that religion is socially and ideologically constructed, as well as that the definition of religion is problematic because it cannot single out any distinctive phenomena, does not necessarily imply that religion is illusory and only a product of imagination. I have argued through promiscuous realism that religion is undoubtedly real and there are many ways to classify them. In fact, the study of religion so far has not been built or even requires an essentialist definition, but through the principle of the similarity of one phenomenon to another. Therefore, the most plausible way to see religion is through a family resemblance approach.

To show that definitional problems of religion are not that crucial, I shall bring this ontological status analysis into religious freedom debate in the next chapter. I shall show that we cannot abandon or abolish the category of religion because not only is it real in the sense of having causal power and plays a role in society, but also because it is useful as a conceptual tool in the sense of social transformation.

2

WHAT IS RELIGIOUS FREEDOM FOR?

IT HAS been argued in the previous chapter that religion is real even though socially constructed. Religion is epistemically objective though ontologically dependent. It does produce some social facts, such as identity and solidarity along with it, which have causal power and play a distinctive role in society. On that matter, we cannot abolish the category of religion for the only reason that it fails to identify and categorise [some/particular] realities since the very nature of a category is always open to define along with the data which has been being collected. I have argued that we will lack the power to judge and protect someone from discrimination, oppression, and persecution on behalf of religious belief and identity if we cannot justify religion as a distinctive category.

Thus, the main objective of this chapter is to argue the significance of the ontological status of religion to the concept of religious freedom. On that matter, in this chapter I have three arguments: First, I argue that religious discrimination

and persecution are real and distinct from other kind of discriminations. Second, I argue that religious freedom does not necessarily require a stipulative definition. Three, I argue that religious freedom is necessary to protect religious minorities and dispensable for providing legitimacy to the majority.

2.1 Why Is Religion Special?

The history of religious freedom is a history about religious discrimination and persecution. Religious freedom, according to Bielefeldt and Wiener, is a human-right-based response to the accumulation of injustice over the centuries based on religion and belief across the world. During the era of the European confessional wars, for instance, imprisonment, deportation, and forced conversion of minorities transpired on a large scale. The only hope of religious minorities and defectors was tolerance and generosity (Bielefeldt & Wiener, 2020, p. 25). Even after the Universal Declaration of Human Rights (UDHR) 1948, where religion is included in the protected category in article 2, religious discrimination is still happening in several European countries. In the UK, for example, prior to the 2003 regulation, Muslim women were not allowed to wear religious dress at work and school. Meanwhile, Sikhs are allowed to wear a turban because it is considered a racial identity and it is protected by the Race Relation Acts 1976. Therefore, in the case of *Hussain v Midland Cosmetic Sales* EAT/915/00, a Pakistani woman who is not allowed to wear the hijab in the workplace was decided by the Employment Appeal Tribunal as a form of indirect racial discrimination, not religious discrimination. In other cases, *Ahmad v United Kingdom* [1981] and *Copsey v Devon Clays* who refused to work on Fridays and Sundays failed to

be justified as a form of discrimination (Addison, 2007, pp. 27, 61).

In light of such various cases, religion is justified to be considered as a distinctive social category. It is distinct from other social categories such as race, gender, or caste. Hence, it needs different treatment and regulation to protect the people who are associated with the category religion. Religious freedom is needed to protect every individual or group to either believe or not any religions. It protects, for example, Christians to wear cross necklaces and Muslim women to wear headscarves in public spaces, even protect atheists from being forced to pray and read the Bible in school, and most importantly above all is to protect minorities from discrimination and persecution of the majority. As Michael McConnell said, "because none of us can predict who will hold political power, all of us can sleep more soundly if we know that our religious freedom does not depend on election returns" (Mcconnell, 2013, p. 772).

There are at least two kinds of arguments, according to Christopher Lund (2017), why religious freedom is necessary: religious arguments and secular arguments. First, quoting John Garvey, "the best reasons for protecting religious freedom rest on the assumption that religion is a good thing [...] It enables them to perform their religious duties, and to avoid religious sanctions. It allows them to pursue the truth, as God gives them to know the truth" (Garvey, 1996, pp. 49–57). Second, citing Douglas Laycock, there are three secular propositions why religious liberty is special: (1) there are so many governmental attempts to suppress disapproved religious views had caused vast human suffering; (2) beliefs about religion are important to some people, important enough to die for, to suffer for, to rebel for, and so on; (3) beliefs at the heart of

religion are insignificantly important to the civil government (Laycock, 1996, p. 317).

However, if the problem is political power and discrimination, why do we need religious freedom at all? Suppose that the best arguments for religious freedom are secular ones, why not withdraw the category of religion and replace it with the secular one as well which somehow still includes religion? Several scholars have done some good works on this to go beyond the category of religion. James Nickel, for instance, suggests that separate enumeration of freedom of religion in national and international bills of rights may be useful but is not indispensable. Nickel proposes that freedom of religion should better be understood and placed in the enumeration of basic liberties since they have provided full protection for religious freedom (Nickel, 2005, p. 943). Nelson Tebble also suggests that the government be restricted not only from endorsing religious propositions but also certain kinds of secular propositions. Micah Schwartzman suggests that the government's incapacity to provide some funding for religious projects should extend to certain kinds of secular projects. Lawrence Sager suggests that the government should be prohibited to intervene in the internal affairs of secular organizations just as prohibited to intervene in the internal affairs of churches (Lund, 2017, p. 500).

All of the suggestions, indeed, are thoughtful. Nickel argues that there are no really good reasons to treat religion in a special way. It is simply because religious activities take place in many different areas of life. It occurs in the intellectual realm to even the social realm such as private spaces like home and family matters (Nickel, 2005, p. 954). Hence, we can barely separate between religious and secular activities. Suppose that

we can categorically separate them, quoting Nickel,

> The activities associated with religious pursuits are enormously varied, and it is implausible to suggest that they are all equally important as liberties. Worshipping and preaching are religious activities of the highest importance, while driving and plastering are religious activities of lesser importance, even when done within religious organizations or contexts. It would be a far greater infringement of religious liberty to limit the length of worship services than it would be to limit the duration of bus trips (Nickel, 2005, p. 954).

The mentioned objection is contextually illustrated by the *Warner v. Boca Raton* case (2001), which is discussed in depth by Winnifred Fallers Sullivan, in *The Impossibility of Religious Freedom* (2005). In that case, some Florida residents were asked to remove any religious symbols such as statues, plantings, crosses, Stars of David, and other individual installations on the graves. The main argument is that decorating graves is simply a choice, not a kind of religious mandate or obligation. In such a case, as Nickel suggests, we find difficulties to determine what kind of religious activities that will be protected by religious freedom. If the argument is about obligation and choice, who has the right to determine and judge that it is simply a choice and not an obligation? The problem, indeed, leads to suspicions about the idea of religious freedom itself; is it theoretically possible and justifiable; whether it can be universally applied, in a sense, for anyone, anytime, and anywhere; whether there are political implications that harm individuals or groups of people. In such suspicions, we need to reconsider the criticisms put forward by several scholars, which I shall elucidate more comprehensively in the following section.

2.2 New Criticism of Religious Freedom

Religious freedom, indeed, was not delivered in a historical vacuum. The very notion of religious freedom in the contemporary world, historically speaking, has come into existence in the socio-political context of the modern Western civilisation. Hence, the idea of religious freedom cannot be taken for granted, in a sense, that the feasibility of the idea could not be applied in a global-universal context due to the variabilities; ideology, politics, and historical experiences. This is what some scholars are concerned about in a collective project called *Politics of Religious Freedom* in the Chicago Press volume edited by Peter Danchin, Fallers Sullivan, Shakman Hurd, and Saba Mahmood. Although not all contributors adopt the same big criticism, as Philpott and Shah note that at least the project has a similar critique, that is the suspicion that the concept of religious freedom is an industry, or in Danchin's term 'technology', from projections of certain ideologies, the interest of factions, and power. Philpott called this project 'the New Critics School' (NCS) (Philpott & Samuel Shah, 2016, p. 381).

There are at least four basic propositions that were carried out by NCS which, I argue, is parallel with the SCTR paradigm. Hence, I will respond to these criticisms later based on my arguments in chapter 2. The first proposition is that religion has never had a stable meaning that applies across historical time and cultural context, as well as the concept of religious freedom. Second, it is Protestant-Western who enables religion as a stand-alone category. Third, it is a product of particular development in Western history which presupposes certain ideological projections that aim to objectify others. Fourth, therefore Westerners ought not to export religious freedom.

I shall consider these four propositions further in the following subsections in several points, which I formulate to a logical proposition: (1) Religions are contingent phenomena across cultures, in a sense, some cultures lack conceptual distinctions between 'the religious' and 'non-religious'. It subsequently leads to (2) definitional problems of religion and the paradox between *forum internum* and *forum externum*. For that reason, (3) religious freedom is regarded as a political, ideological, and technological tool to justify certain agendas.

2.2.1 The Contingency of Cross-cultural Practices

It has been argued by SCTR that religion is not a cross-cultural category. Religion is conceptually invented, constructed, and imagined by Western civilisation. This argumentation is parallel with NCS's criticisms in at least two central claims. First, the analytical category 'religion' is completely diverse and its use across culture and history is incommensurable. Religion does not have a solid meaning, stable reference, and a common phenomenon that allows one to identify something as a 'religion'. Supposed that religion is a genus, it fails to classify different species but have the same generic quality (Philpott & Samuel Shah, 2016, p. 383). It is nothing but a consequence of the fact that, as Hurd said, what we confront in the world is a diverse, shifting, and multiform of practices (Hurd, 2015b, p. 6). Moreover,

> Religion does not stand outside or prior to other histories and institutions. Religious practices unfold amid and are entangled in all domains of human life, forms of belonging, work, play, governance, violence, and exchange. Religion cannot be singled out from these other aspects of hu-

> man experience, and yet also cannot simply be identified with these either (Hurd, 2015b, p. 7).

Second, religion as a generic category was invented by the modern Protestant West, which was then imposed on multiform religious fields across the world. The emergence of the category 'religion' as something that is genealogically distinctive is closely related to the apologetic efforts made by the modern Protestant West to free themselves from various forms of religious irrationality and violence in early modern Europe, by creating and defining religion as something completely separate from politics and under political control (Philpott & Samuel Shah, 2016, p. 384). It is Protestant Reformation, Hurd argues, which enables religion to become legally available as a stand-alone category, both domestically and internationally (Hurd, 2015b, p. 19).

The only way to understand religion, according to Hurd, is to see it as a discursive category. On that account, she divides it into three categories: expert religion, lived religion, and governed religion. Expert religion is intended by Hurd to refer to the category of 'religion' which is debated in academia; journals, symposia, and conferences, to answer various questions ranging from mere curiosity to the needs of policymakers. Lived religion is explained by Hurd as a category that encompasses practices beyond the boundaries defined and interpreted for legal and governmental purposes. Finally, the category of governed religion is intended by Hurd to refer to religions that are specifically privileged through state or international advocacy in the project of religious freedom, religious tolerance, and interfaith dialogue (Hurd, 2015b, p. 9).

Nevertheless, Hurd argues that the three categories of religion are not in isolation. Hurd emphasizes that mutual

interactions and blurred boundaries between the categories are inevitable. Even though lived religion is assumed to be outside of governmental category and definition, it is not in a void isolated from institutional or organized religion. In other words, there is always a continuous process of adaptation going on between the three categories; people try to adjust, experts try to explain, and the government tries to regulate. Hence, "there is no autochthonous religion," says Hurd, "that stands independent of 'elite', 'orthodox', or 'legal' religion" (Hurd, 2015b, p. 13).

Accordingly, NCS rejects the tradition of thought and practice in human rights conventions, which ignores the empirical context through its naive claim that all human beings deserve protection and immunity from coercion in religious matters, simply by virtue of their humanity. This tradition, as Philpott and Shat note, is built on at least three core assumptions. First, religious freedom is assumed as a universal morality that applies to all, in a sense, there is no obligation for anyone, either on religious or non-religious orders, to submit to others. Second, religious freedom is assumed as a concept of negation, therefore it relies on the modest principle. In other words, it is a kind of negative liberty (freedom from—proscriptive) rather than assertive liberty (freedom to—prescriptive). Third, religious freedom is conjectural, in a sense, not absolute since it is limited by other basic human rights and public welfare. On that matter, NCS considers that the concept of religious freedom is incoherent, shifting, and parochial (Philpott & Samuel Shah, 2016, p. 383).

2.2.2 The Paradoxes of Religious Freedom

Religion, as a category introduced into international law and policy, according to Hurd, cannot explain and portray a wide and diverse field of life. Instead of capturing and explaining reality, the category does change many practices and social realities through the selective process of modern governance. However, at the same time these predicated subjects are not really defined by such governance as well as their discursive environment, nor are they fully capable of being portrayed through any definitive category of any kind. In the actual world, many practices are messy; people are adaptive, in a sense of social evolutionism. They are acculturating, borrowing, mixing, not only from other traditions but also from other practices; economics, politics, literature, art, and so on (Hurd, 2015b, p. 127). In that kind of irony, I argue that if we want to defend the idea of religious freedom, we inevitably face two problems: 1) The Monty Python problem, and 2) the paradox between *forum internum* and *forum externum*.

THE 'MONTY PYTHON' PROBLEM

The common problem of religious freedom is that one needs to define what 'religious' really is and the most crucial problem is about who should or may define it and what are the consequences. Christopher Eisgruber and Lawrence Sager call this the Monty Python problem. The Monty Python problem refers to a comedy about the paradox of weapons made by the English military during World War II. The paradox illustrates a joke as a weapon that makes people die from laughter, but since the joke must be learned by all squads, they would be already dead before it was delivered. "On some accounts," say

Eisgruber and Sager, "religious liberty may be self-destructive in much the same way as the undeliverable joke.

> The problem goes roughly like this: in order to protect religious liberty we have to define what religion is, and once we are in the business of saying that some beliefs, commitments, and projects are entitled to special treatment as 'religious' while others are not, we are creating a sphere of orthodoxy of exactly the sort that any plausible understanding of religious liberty should deplore (Eisgruber & Sager, 2009, p. 807).

To put it in another way, the Monty Python problem says that we cannot protect religion without defining what it is. Yet, once we define what religion is, we have undone religious freedom because we confine what. It leads back to the debate between essentialism and nominalism about religion, which implies the problem of exclusivism and over-inclusivism. On the one hand, suppose that we stand for Tylorian or Schilbrack essentialism, religious freedom will only protect practices or beliefs that are attributed to the supernatural and the super-empirical world. Religious freedom cannot accommodate, for example, followers of Way of the Future (WOTF), a new religion founded by Anthony Levandowski, who worships Artificial Intelligence (AI). It cannot even protect the adherents of great religions such as Buddhism, which some of them have no conceptions about supernatural beings and super-empirical worlds. On the other hand, presuming that we take a nominalist approach, we will hardly be able to justify whether a practice is 'religious' or not; should my employer let me take a nap if I regard sleeping at 2 p.m. as part of my religion?

Such problems, according to Bielefeldt, raise worries that in the long run, freedom of religion or belief will become a trivial problem. Many people will find and create new 'religions-

like' just to enjoy the immunity provided by FRoB. Some people in the UK, for example, declared 'Star Wars' as their religion, or there are rumours about coffee shops in the Netherlands calling themselves 'religious communities' as a cover for drug trafficking in the name of liturgical practice. Such problems often encourage policymakers to give and get caught up on essentialist definitions to determine whether religion is legal or not, recognized or not; which one is religious, and others not. The consequences are quite clear; discrimination and persecution of minorities (Bielefeldt, 2016, p. 55).

THE PARADOX BETWEEN 'FORUM INTERNUM' AND 'FORUM EXTERNUM'

The impossibility, or the need, to define what is so-called 'religious/religion', leads to another problem in regard to the distinction between *forum internum* and *forum externum*, which according to Mahmood is impossible because, "in order to judge whether a certain belief is worthy of protection, the state must inevitably involve itself in investigating the substance and sincerity of the belief; this, in turn, embroils the secular state further into the domain of privacy, which is supposed to be a space of autonomy and freedom" (Mahmood, 2016, p. 178). It explains why Peter Danchin stated that the tendency of courts to always side with and give privileges to the majority religion on the basis of the universality thesis and discriminate against minority religions in the framework of public order as a form of neutrality is not a misapplication of the right to freedom of religion. The number of such cases, according to Danchin, is a product of contradictions and internal antinomies of the concept of rights itself which is derived from

the always contested distinctions between *forum internum* and *forum externum* (Danchin, 2017, p. 205).

The main argument of Danchin and Mahmood is undoubtedly valid and is corroborated by empirical evidence that in fact the religious freedom thesis actually legitimates the majority of religions that have always been the basis of public order. As a consequence, public order is often used as an excuse for discrimination against minorities. In the case of Bahaism in Egypt, for example, Bahais are not accepted as a religion by the state because Egypt commits to Islamic sharia as provisions, in which Islam only recognizes "People of the Book" or Abrahamic / heavenly religion, and accepting Bahais means injuring the public order (Mahmood & Danchin, 2014a, p. 139). Therefore, in the name of the public order, which is defined based on the general norms prevailing in society, Bahais is not recognized as a religion which consequently is not fulfilling other rights as citizens that should be accepted.

This leads Danchin and Mahmood to the conclusion that the distinction between *forum internum* and *forum externum* was from the very beginning ambiguous and paradoxical (Mahmood & Danchin, 2014a, p. 130). The *forum internum* which is assumed to be absolute and neutral must ultimately be intervened by the state on behalf of the public order, while in the formulation of the European Convention on Human Rights (ECHR), the state is only allowed to intervene in the external forum as a limited domain, which is related to the manifestation of an individual or group religion and belief. Most of the cases of discrimination against minorities often occur in this way. The case of Ahmadiyya, for example; in October 2010, Ahmadiyya was decided to be banned in Indonesia by the Minister of Religion, Suryadharma Ali. The

classic argument used is the *Blasphemy Law*; that Ahmadiyya is a heresy from Islamic teaching so that it can be said to be a blasphemy against Islam as the majority religion (Crouch, 2012, pp. 571–572).

2.2.3 Religious Freedom As an Industry and Technology of Modern Governance

The two paradoxes above lead us to the assumptive conclusion that religious freedom may be an empty signifier that can be filled by any interpretation and definition, in a sense, its conceptual power depends on certain political contestations. This is exactly the line of NCS's account; considering religious freedom only as a discursive concept, in a nominalist sense, which has no meaning in itself, but a meaning that is always contested through various mechanisms of power relations. It explains why NCS argues that the idea of immunity offered by the principle of religious freedom is thus only a concept intended to serve certain interests since only who has the power can define it. Religious freedom, Hurd alleged, is nothing more like a good movie where the protagonist acts as a hero who saves people from religious oppression. It came to bring emancipation and liberate individuals, particularly women and minorities, from their primitive and discriminatory ways. Hurd says,

> It is a story of the triumph of the free market, of the 'real' freedom and 'real' religion that are said to emerge naturally when government influence is stripped away from the religious lives of citizens. And today, especially, it is a story for the US government and its friends to convince others—particularly Muslims—that they should endorse a particular model of religious liberty as a template for

> organizing and democratizing politics and society (Hurd, 2015a, p. 45)

The same thing was also expressed by Danchin in *Religious Freedom as a Technology of Modern Secular Governance* (2017). According to Danchin, the dialectic that plays between secular neutrality and individual rights clearly defines how the right to religious freedom is simply a technology of secular government that is an integral part of the power relation of modern states (Danchin, 2017, p. 186). The concept of religious freedom, as Danchin and Mahmood suggest, is not only a legal and political instrument created to protect the sanctity of religious beliefs but is also a modern government technology to maintain the state's right to regulate all areas of social life, in which religion is an important part of them (Mahmood & Danchin, 2014b, p. 5).

The manifestation of this kind of technology, according to Mahmood and Danchin, can be seen in how the concept of public order always sided with the beliefs, values, and traditional practices of the majority religion in any country. It is commonly found in the cases of Ayodhya in India, Bahai in Egypt, the Jehovah Witness in Greece, the Sahin in Turkey, Lautsi in Italy, Dogru in France, and we can name it more, Ahmadiyya in Indonesia. Mahmood and Danchin consider this tendency as a consequence of the necessity of the modern secular state to be involved in regulating the social life of religion and often creating substantive provisions. Eventually, the state was trapped in the internal contradictions of the idea of secular government; on the one hand, the state must be neutral and ensure that religious beliefs are free from state's intervention, but on the other hand, the state has the authority to regulate the public expression of religious beliefs which,

according to Mahmood, is not possible without intervening in the substance and sincerity of the beliefs (Mahmood & Danchin, 2014b, p. 6).

Accordingly, the interpretation and practice of religious freedom can never be separated from the power difference between the majority and the minority in a polity. The difference in power, of course, determines the actualization of religious freedom in a country as a neutral instrument that protects religion or its adherents. The right to freedom of religion has actually helped create a new identity, reified religious differences, and justified further state regulation of religious life, and in some cases actually facilitated the hegemony of powerful geopolitical actors (Mahmood & Danchin, 2014b, p. 7). On that matter, quoting Hurd, "Would it be possible to continue promoting religious freedom as a universal norm if the modern construct of belief, and its tireless partner, non-belief, were understood as the product of a specific political discourse situated in history rather than as the mark of the sacred?" (Hurd, 2015b, p. 46).

Needless to say, we have to take NCS criticisms into consideration. The practical variations of the concept of 'religious' or 'religion', its relation to the state, and the historical-cultural background force us to rethink the universality of the concept of religious freedom. Relying solely on universal philosophical principles of religious freedom leads us nowhere, if not a kind of naiveness. As Robert Hefner suggests, we have to avoid the tendency to conflate philosophical assumptions of religious freedom with sociological findings on the real and existing varieties of 'ethicoreligious' practice and governance. This tendency ignores the fact that the struggle that gave birth to different systems of religious governance in various places,

which involves many actors, discourses, and powers, has a larger portion in shaping the variety of ideas about religious freedom than the ideal premises about individual autonomy and freedom of belief. Many individuals and groups adopt the idea of religious freedom not because they are committed to the idea of individual autonomy, but because it has so much to do with their interests. It explains why, even in European countries, there is no equal treatment for the entire arrangement of religious communities since the very idea of religious freedom is not universal, but selective and conditional (Hefner, 2015, pp. 128–129).

Such facts, according to Hefner, show that religious freedom cannot be understood solely in its pessimistic form, in a sense, only as a negative form of liberty that protects one's freedom from any coercion. The prescription of religious freedom somehow is quietly encouraging since religious freedom allows people in various societies to appropriate it in order to solve some co-existential problems in conditions where there are religious and ethical diversities in a society. Above all, Hefner made a point that instead of being a form of philosophical commitment to individual autonomy, social motivations such as group recognition play an important role in religious freedom (Hefner, 2015, p. 133).

2.3 Realist Approach to Religious Freedom

The skeptical approach to religious freedom, I argue, is sound in at least two respects. First, religion as a category is not something that can be isolated and separated from other phenomena such as politics, economy, culture, and so on. Second, every definition of a concept is always disputed and contested,

in a sense, its meaning is determined by the dominant power. However, these two claims do not necessarily imply that religion is not real so that we could or even should abandon and abolish it. It is not much different from politics and economics, religion has an essential causal role in social life that cannot be reduced to merely a form of culture, although it is difficult to define. In fact, we can barely define the extent to which human activities fall into the category of economic or political activity; is buying weapons and war equipment from China an economic or political activity? Is the boycott of Israeli products an economic or political activity? In the social world, it is almost impossible to isolate such activities in clean boxes and lines. However, we believe and know that these categories are real and have distinctive causal power that is irreducible to one or another particular category.

It is precisely on that argument we should re-examine and challenge NCS's propositions. For, the logical and practical consequences of their criticisms, if we take it for granted, eventually lead to the impossibility of having the right to freedom of religion and belief and the further consequence is that we do not have any conceptual and political power to protect the rights to religious freedom—simply because it is impossible in principle. In acceptance of this assumption, we can say regrettably that there are no more principles that we can use to protect minority religions and beliefs. This is obviously a nightmare for a democratic society. There is no more protection and legal certainty for minority religions or religious sects. There are no legal tools to protect Shia, Ahmadis, and other minority beliefs.

Hence, in this following subsection, I defend the thesis of religious freedom through a realist approach in three methodi-

cal steps. First, I follow the arguments of Bielefeldt and Wiener, and Eisgruber and Sager to demonstrate that the concept of religious freedom does not necessarily require a definition of religion. In order to defend religious freedom, I argue, we only need to assert that religion has a certain power to discriminate, oppress, and persecute someone, and vice versa. This stage provides an answer on why the thesis of religious freedom should be maintained in a structural realist framework in order to protect the rights of minorities. Second, I re-examined the paradox of religious freedom proposed by Danchin; whether there is a self-contradictory or self-refutation or merely definitional problem and a practical fallacy. Thus, I propose an alternative argument through a diagnostic modality about the contingency of legitimacy for majority and the necessity of protecting minorities through religious freedom.

2.3.1 Overcoming Definitional Problems

Here is the logic of NCS: (1) Introducing the category of religion to be one of the fundamental rights of freedom presupposes special treatment of certain practices that fall into that category. In a sense, (2) it seems inevitable for us to buy the proposition that any operative theory of religious freedom is subsequently supposed to endorse any certain contentious definition of religion. Meanwhile, (3) defining religion as a stand-alone category is impossible since it cannot single out any distinctive phenomena so-called religion. Hence, (4) religious freedom is simply impossible in a way that we cannot actually point out what will be protected by that principle.

I challenge the logic above with two propositions: 1) Religion is real as a distinctive phenomenon even though it has no

stable meaning and cannot be a stand-alone category. 2) The idea of religious freedom does not require any analytical definitions of religion because it does not protect religion per-se, but the people who hold any kind of religious belief.

Philpott and Shah argue that Hurd's criticisms of the constructs of 'expert' and 'governed religion' presuppose that there are genuinely 'lived' or 'everyday' religious phenomena that are separate and identifiable. The issue of whether the reference and definition are very political and biased of a certain ideology has never exhausted the reality of the existence of religion itself. Without any conceptualization, the practices referred to by the word religion will still exist and can be classified even though they are not always adequate and free from political interests. "Much the way an element such as oxygen," Philpott said, "can be conceptually singled out for analysis even though it is never found in nature in complete isolation but always intermingled with other elements. The views of the new critics themselves, then, commit the proposition that religion is not a hopelessly variable muddle of indeterminacy" (Philpott & Samuel Shah, 2016, p. 386).

Philpott and Shah's realist objection to NCS propositions is worth taking into consideration. However, Philpott and Shah are still trapped in the referential ontology which consequently conflates between object and class. They are confused in comparing religion as a class with oxygen as a chemical object. On that matter, indeed, we cannot provoke a problematic question "what does oxygen consist of?", as we ask "what does religion consist of?", because oxygen only consists of diatomic molecules, O2, in all the known world and it is actually found in complete isolation by technological engineering. Meanwhile, what religion consists of is much different and

always contested in cross-cultural phenomena in which there is no way to insulate it.

The problem of referential ontology, by all means, is that it requires an essential definition of religion, which subsequently has controversial consequences. Philpott and Shah did not really answer the definitional problems of religious freedom which were proposed by NCS. Hence, we have to overcome the referential ontology that tends to find religion in an external world that is independent of any conceptualizations. For this reason, I argue, the promiscuous realist approach helps us to justify that religious freedom does not necessarily require an essential definition of religion; we only need to justify whether or not religious discriminations are real. In light of such an assumption, following Bielefeldt and Eisgruber, I argue that the questions about the definition of religion in religious freedom are irrelevant. "The idea that you must be able to define religion in order to defend religious liberty," in their view, "rests on a mistaken understanding of religious freedom, and more narrowly, of the normative thrust of the Religion Clauses of the Constitution" (Eisgruber & Sager, 2009, p. 811).

W. Cole Durham (2004) argues that such definitional problems are not only irrelevant, but also simply unsolvable at the level of theory. As Victoria Harrison (2006) also demonstrates, there is no intellectual way to define religion unproblematically. Harrison argues that the very concept of religion is probably 'vague' or 'open textured', which has a variety of undisputed applications because there is no clear and satisfactory answer to the question of whether or not the application of the concept is proper. It is in a similar vein with the concept of 'bald'; no one can stipulate how much hair we have lost to be called 'bald'. The other examples that are commonly

disputed in psychology and biology are 'mind' and 'species'. They do not have any clear and stable meaning, but they are central to the theory building in their respective disciplines. The lack of definitive meaning of bald, mind, and species do not necessarily imply that the application of them is nonsense or that we should abandon the concepts (Harrison, 2006, pp. 144–145).

Both Durham and Harrison, however, suggest that in most cases such problems are pragmatically easy to solve. I note that there are at least three approaches proposed to address this problem. First, following Durham's argumentation, the definition of religion must be broadened, in a sense, we have to make it loose to avoid discrimination by definitional fiat. Such an approach has been officially announced by the UN Human Rights Committee in its General Comment No. 22 in 1993, which is plausible and should be followed:

> Article 18 protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief. The terms belief and religion are to be broadly construed. Article 18 is not limited in its application to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions. The Committee therefore views with concern any tendency to discriminate against any religion or belief for any reasons, including the fact that they are newly established, or represent religious minorities that may be the subject of hostility by a predominant religious community (Durham, 2004, pp. 352–353).

These provisions, argues Durham, provide space for unlimited diversity and plurality of religious phenomena. It does not only protect the established traditional or conventional religions, but also for smaller, newly formed groups, which

are often considered heretical, or even those that are not recognized as a religion by the majority religious groups, such as *'aliran kepercayaan'* in Indonesia.

The second approach, following Kent Greenawalt's argumentation, is the hands-off approach. This approach was originally intended by Greenwalt to overcome intra-religious problems which often confront two or more interpretations of a religious doctrine, which supposes the court to intervene in the interpretation of the doctrine to determine which interpretation is true. The hands-off principle basically supposes the court or government "must keep out of internal problems of religious bodies when those problems concern religious understanding" (Greenawalt, 1998, p. 1844). This approach, by Eisgruber and Sager, is drawn into a wider context. They argue that the definitional problems in religious freedom are irrelevant to constitutional law because the main purpose of religious freedom is not to protect religion as such, but to protect people from certain governmental deviations that cause injustice in a religiously diverse society. In another sense, the main issue of religious freedom is not that certain religions or religiosity are victims of injustice, but that the political and cultural consequences, as well as the governmental interpretation of religious diversity, lead to injustice (Eisgruber & Sager, 2009, p. 811).

It then explains why Bielefeldt states that blasphemy laws are a major obstacle to religious freedom. The blasphemy laws, argues Bielefeldt, provide a legitimation for the majority to silence criticism from minorities (Bielefeldt, 2012, p. 34). In other words, it tends to protect certain religions per-se rather than the people. In consequence, instead of protecting people from any discrimination and persecution, it is quite the other

way around. Such cases are commonly found in Indonesia, where the courts, under pressure from the MUI, mass organizations, or the ministry of religion, often interfere with the internal doctrine of a particular religion, which subsequently produces some fatwas about heresy, prohibitions, and persecution against minorities, such as, Ahmadiyya, Shia, GAFATAR, and so on (Cholidah, 2017).

Nevertheless, ask Eisgruber and Sager, are there any exceptions to the hands-off approach? Suppose there is a plaintiff who comes to court and complains that government regulations burden him in practising his religion, does not the court have to step into the internal doctrine of his belief to ensure whether or not the burden exists by assessing what is required and not required by his religion? (Eisgruber & Sager, 2009, p. 813).

Thus, the last and most plausible approach is what Eisgruber and Sager call the phenomenological approach. In certain cases, it is necessary for the court to assess someone's belief; not in a theological sense about the most correct interpretation of religious doctrine, but in a phenomenological sense about how someone holds his belief (Eisgruber & Sager, 2009, p. 813). This idea is parallel with Bielefeldt and Wiener's suggestion that the very idea of religious freedom should be seen as a tool to protect human beings, not religion per se. Hence, instead of defining religions from outside to decide which are 'worthy' of protection, religious freedom should be approached in respect the self-understanding of human beings; "who they are, how they want to be treated, which practices they wish to see respected" (Bielefeldt & Wiener, 2020, p. 27). That is exactly what Bielefeldt suggests to overcome the debate between nominalism and essentialism in understanding religious freedom.

In Article 9 ECHR, argues Bielefeldt, it has been well formulated that someone's belief must indicate "a certain level of cogency, seriousness, cohesion, and importance" to be protected. Meanwhile, the criteria of such levels are determined by an existential urge, in a sense, it has an impact on his identity and even his meaningful life (Bielefeldt, 2016, p. 55).

2.3.2 Beyond 'Forum Internum' and 'Forum Externum'

The pragmatic approach to religious freedom, as I may call it, which is proposed by Harrison, Bielefeldt, Eisgruber and Sager, helps us to re-examine and overcome the paradox between the *forum internum* and the *forum externum* which Danchin and Mahmood propose. It does solve the problem of how the court does not require to intervene with the internal doctrine which is assumed to be neutral in order to judge whether or not a person deserves the freedom to exercise and should be protected by the state. As argued earlier, the court only needs to assess phenomenologically about the seriousness, cogency, and importance of one's belief without making a substantive judgement on the internal doctrine of certain religions.

I find that the case example used by Danchin is neither accurate nor relevant. The restriction of Bahaism in Egypt has absolutely nothing to do with the paradox that Danchin accuses. From the beginning, the supposed public order in that case was no longer neutral because Egypt commits to Islamic sharia. It is simply that not recognizing Bahaism as a religion is a consequence of this non-neutral public order. Therefore, I argue, the case of Bahaism does not necessarily prove that there is a paradox in the thesis itself. It is quite different if we

look at the cases of Ahmadiyya in Indonesia. Public order in Indonesia is ideally 'neutral' because it does not commit to a state based on a particular religion (the case of atheism in this case is still debatable because of the first precept of Pancasila), so there is no reason whatsoever to prohibit religious practices other than to maintain safety, health and rights of other people. Thus, I can firmly say that the limitation of Ahmadiyya in Indonesia is only misapplication or even inconsistency of the state to supposedly abstain from internal doctrine of religions.

Danchin, indeed, realizes that such problems are caused by the different contested powers. However, Danchin argues that this difference presupposes two implications: first, it gives authority to the state to intervene in the domain of religious belief which should be autonomous and sacrosanct; and second, it gives privileges to the values and beliefs of the majority as norms that become the standard of judgment or judgment on minority religious practices (Mahmood & Danchin, 2014a, p. 130). For this reason, Danchin perceives such a problem as the result of a paradox in the architecture of the right of religious freedom.

Nevertheless, following Joustra's argument, it seems that the real target of Danchin and Mahmood criticisms is not religious freedom itself. The NCS's conclusion that religious freedom privileges some forms of religion and dis-privileges others is not the fault of religious freedom, rather the natural consequence of sovereignty and of political secularism. It should be already clear that, argues Joustra, the neutrality of the secular state, indeed, is not intellectually innocent. Secularism is no more than a product of a political community that has notions about certain kinds of beliefs and behaviours, therefore suggesting that it was intended to be a kind of open-

cosmopolitan social space is historically naive (Joustra, 2016, p. 131).

Thus, the only possible paradox, if this is what Danchin means, is about the paradox of secularism itself; that is, a religious and secular separation is never possible because to separate the two also presupposes interference in religious matters. If we draw this paradox into the problem of the religious freedom thesis, we can rephrase it that in order to limit the *forum externum*, the state must inevitably enter the *forum internum* to examine the relationship between the two domains. It seems to be what Danchin means by his statement that:

> … no matter how the content and scope of the *forum internum* is demarcated, the court must make substantive judgments on what constitutes or falls within the protected category. The paradoxical result is that the courts must make determinations that are inescapably entangled with and premised on religious criteria and precepts, in order to define a sphere free from state authority–a private space of exception–which ostensibly limits legislative and other forms of governmental authority. This ever shifting and contested process of construction and demarcation of the *forum internum* is an integral part of the public order of the state itself (Danchin, 2017, p. 200).

Danchin and Mahmood's initial mistake, it seems to me, lies in the case used as the evidence to support his argument. Making religious doctrine based on majority decisions, as Bettina Koch argues, would clearly harm citizens' right to religious freedom. Koch argued that if a religious doctrine becomes state law then it will be coercive towards either non-believers, atheists and even believers (minorities) (Koch, 2013, p. 123). Hence, the case of discrimination against Bahais is not a consequence of the paradox in the religious freedom thesis, but an inevitable consequence of Islamic doctrine which is

used as a source of state law. As Zackary Elkins also suggests, the relationship between state religion and religious freedom is incoherent. Their relationship has a very strong effect on the fate of minorities in a country. Religious freedom guarantees the rights of minorities to practice and choose their way of life even though the consequences create a very strong diversity. Meanwhile, state religion has consequences for excluding minority groups (Elkins, 2019, p. 16). This is also in line with what North said that "having an established state religion can undo the positive effect of well over a century of constitutional protection of religious freedom" (North & Gwin, 2004, p. 116). Thus, the exclusion of Bahais in the case used by Danchin is a consequence of the state religion model adopted by Egypt which is contained in Article 2 of Egypt's 2014 Constitution that declares the principles of Islamic Sharia to be the main source of legislation.

Accordingly, I argue, the inevitable intervention of the state in the *forum internum* imagined by Danchin and Mahmood should never happen if the court or the state is assumed to be neutral to any religious doctrine and interpretation. As Bielefeldt, Eisgrubler and Sager suggest, the court should take the hands-off and phenomenological approach to assess whether or not some practices deserve to be tolerated and protected. This is well illustrated by the case of Eddie Thomas, a Jehovah's Witness. Thomas was originally working in the plant's foundry along with his friend, but when the foundry closed, they were reassigned to build tank turrets. Thomas refused the job because he believed that his religion permitted him to work in producing materials to make a weapon, but prohibited him to work directly in the fabrication of weapons. Nevertheless, his friend accepted the assignment because he

believed that his religion permitted it. On that account, the State of Indiana refused Thomas' unemployment benefits proposal since he refused the job without good cause. Indiana argued that Jehovah's Witnesses did not forbid him to build tank turrets. When Indiana invited the Supreme Court to resolve that problem, the Supreme court wisely abstained from making substantive judgement on Thomas' beliefs. The Supreme Court argued that the question whether or not Jehovah's Witnesses really forbid someone to make a weapon was irrelevant. The only relevant question, according to the Supreme Court, was whether Thomas sincerely and seriously believed that his religion prohibited him to make a weapon (Eisgruber & Sager, 2009, p. 814).

2.3.3 Religious Freedom: Between Protection and Legitimacy

The paradox Danchin and Mahmood imagined has so far been unfounded. The only problem they raise, which is crucial enough to be considered further, is about the tendency of religious freedom to give legitimacy to the majority through the court decisions. In a sense, the concept of religious freedom in many cases becomes a tool for the majority group to establish and maintain their power, which subsequently discriminates against minorities because of the court's fiasco to abstain and not make substantive judgments about the internal doctrines of certain religions. The consequences of such failure are quite clear; the court will take into account the decision based on the most genuine of two or more interpretations of a religious doctrine that is being disputed. However, does the concept of religious freedom necessarily provide legitimacy to the major-

ity instead of protecting the minority?

To solve this question, I propose a diagnostic modality to demonstrate the quality of the necessity of religious freedom in providing protection and legitimacy. On that account, I built this diagnostic modality on two premises: 1) Religious freedom does not require any analytical definitions to be realized. 2) The very idea of religious freedom is protecting people, especially minorities, to hold and practice their religious belief. In other words, it is not meant to protect religion itself because it is simply impossible due to the varieties of interpretations of religious doctrine.

It has been argued by NCS that religious freedom is an unnecessary concept because it cannot pick out distinctive phenomena which are protected by the concept. As Nickel suggests, we can actually replace religious freedom with another, and more general, concept of freedom which can also protect what religious freedom aims to do. In other words, we should replace the concept of religious freedom with the secular concept which protects the broader scope of freedom because: First, there are no reasons relating to God or any religious commands and values to be treated in a special way. Second, we can acquire a broad and ecumenical scope for religious freedom in other areas such as association, movement, politics, and business (Nickel, 2005, p. 943). These arguments are in similar vein with Henrik Olsen's skepticism. Olsen argues that there are no satisfactory reasons why religious motivations are not treated in an equal way with other motivations, such as political or even philosophical. In democratic society, according to Olsen, it must be possible to convince others that every action should be permitted, not only the one which is motivated by religion (Olsen, 2000, p. 253).

Nevertheless, alternative freedoms that Nickel mentioned, I argue, are not unproblematic as religious freedom because we still need to define the scopes that are protected by freedom of association, movement, politics, business, lifestyle, traditional way of living, etc. At the end of the day, we are still required to provide any classification of those freedoms; which movements are protected, which are not, and so on. If we follow this logic of replacement, why do we not replace all concepts of freedom with only one concept of 'freedom to do everything' which is more universal and inclusive, because we also eventually need to define what falls into the protected category. For this reason, we cannot take this kind of criticism into account as an argument to abandon and abolish the concept of religious freedom. Otherwise, every concept of freedom we propose will fall into the definitional problems. In consequence, if we follow the arguments that every single definition will privilege and disprivilege a certain individual and/or group, it is also applied to every concept of freedom, even the concept of right itself.

On that account, I follow Philpott and Shah's arguments. They have raised at least seven objections to the NCS's criticisms, which I can summarize them into one line argument that the NCS's criticisms are very excessive, if not even overmischaracterization, because the concept of religious freedom is much broader than just a projection of both secular and Protestant-Western ideologies. In fact, argue Philpott and Shah, religious repression is real and widespread and most of it has nothing to do with a particular ideological project. Religious freedom is not only a way of salvation that is offered by the West to the East / Islamic world as a form of objectification — as pointed out by Hurd, but to all mankind, even for the West

itself. Instead of being an ideology exported from the West that rests on the liberal idea of individual autonomy, it also does not rely on any theological, philosophical, or ideological doctrines. "Religious freedom," Philpott and Shah argue, "is, rather, a human claim. It is conceptually modest yet morally critical, rooted in every human being's simple yearning to explore and embrace authentic answers to the most ultimate questions, free from coercive interference by others. It is not an elaborate social or political aspiration, but a moral minimum" (Philpott & Samuel Shah, 2016, p. 395).

Throughout, religious repression and discrimination are undoubtedly real. In many cases, one could suffer any discriminations simply because of his religious identity; because he is a Muslim, Ahmadiyya, Shia, and so on. These discriminations are obviously irreducible to other social categories. While it is true that such discrimination could be caused by politics and other issues, but it will never exist without the assumption that such identities are real and bearing any social stigma. Therefore, religious freedom is necessary to protect and provide legal certainty for those who are vulnerable to such discriminations. As Mcconnell said earlier, it could also be a protection from any governmental deviation because no one knows who will hold the power. Supposed that there is no concept of religious freedom, while religious phenomena are real, there will be more gaps for the majority to discriminate against the minorities, and the less for minorities to get protection. In other words, religious freedom is not the only tool for the majority to preserve their power and discriminate against the minorities. Yet, religious freedom is the most powerful, if not the only, tool for religious minorities to obtain protection from the state.

2.4 Conclusion

I have argued in this chapter that the ontological status of religion does have major implications to the concept of religious freedom. Being a nominalist about religion consequently implies that religious freedom is impossible since the protected category simply does not exist and is not real. However, I argue, religious repression and discrimination are undoubtedly real. They are irreducible to one or another kind of discrimination; race, gender, social class, and so on. Religious discrimination is distinctively caused by one's certain religious identity or belief which has an equal causal power with other social and cultural identities. For this reason, being a realist about religion is the most plausible way to counter and overcome such religious discriminations.

The NCS's criticisms seem legitimate, indeed, to some extent. Introducing the category of religion into the constitution and international policy seems to require us to define what falls into the category that needs to be protected. Meanwhile, defining religion is not an easy, if not impossible, task because it is not an isolable phenomenon. In consequence, every strategy to define religion will always privilege some and disprivilege others, and this is very vulnerable to certain political interests. Nevertheless, I argue, definitional problems of religion do not imply that religion does not exist so that we could or even should abandon and abolish the concept of religious freedom. Every concept of freedom that is proposed to replace the category of religion is not unproblematic. Let's say that what religious freedom wants to protect is already covered in the concept of freedom of opinion, expression, and association, the court still needs to define and determine what

boundaries are included in the protected category. Therefore, definitional problems cannot be an excuse or argument to abolish or replace the concept of religious freedom.

Given that religious repression and discrimination are real, the most reasonable theoretical stance to take is defending the concept of religious freedom. It has been argued that definitional problems, in practice, are irrelevant to religious freedom because the very idea of religious freedom does not protect religion per-se, but protects the people, especially, minorities. On that account, I argue, religious freedom is a necessary concept to protect religious minorities from any coercions; either from majority groups or even governmental deviations. In contrast, religious freedom does not necessarily legitimize the majority to establish and preserve their power because there are many ways for them to realize such things; common good, public order, or even democracy. Therefore, religious freedom must be defended because, rephrasing James Scott, it is the 'weapon of the weak.'

CONCLUSION

THE OBJECTIVE of this book is to provide an ontological account of religion and to draw an argument about its implications to the concept of religious freedom. Thus, the whole argument of this book is built on two conditional presuppositions: (1) If religion is not real, then religious freedom is nonsense because the category that is meant to protect does not exist from the beginning. Yet, (2) if religion is real, then what is the best strategy to introduce it into a constitution and political policy in the name of religious freedom?

It has been argued that the ontological problem of religion, compared to common ontological debates which contrast between natural kind and social kind, only presupposes a diametrical conflict between realism and nominalism about social kind since religion has no proper attribution to natural kinds as race refers to melanin and gender to sex. Thus, it somehow makes the ontological debate on religion more complicated and quite tricky because it seems counterintuitive to justify something as real and socially constructed at the same time. Hence, the problem that needs to be solved is whether or not social kind is real; in other words, does social construction of religion necessarily imply any kind of antirealism?

Social constructionists, with their nominalist approach,

argue that there is no data for religion, therefore it is merely a social construction. Genealogically, it cannot be separated from the history of western scholars through their intellectual reflection on philosophy to theology, anthropology to sociology, and so on. In other words, religion as a category is solely the creation of scholars by their imaginative comparison and generalisation for their analytical purpose. As a category, it is not cross-cultural so it does not pick out anything from across cultural phenomena. In consequence, we have to abandon the category and close the religious studies department because it has no object to study.

I have argued, however, that the existential mode of religion as a social fact is completely different from the mode of the robust fact in natural science. It is a truism that social reality is undoubtedly constructed by human beings, in a sense, it has always been socially constructed. Hence, I have argued, through a realist approach, that religious phenomena are real in at least two respects. First, it exists as a social fact in its mode which relies on collective intentionality in certain social communities. In a sense, it is ontologically dependent because its existence depends on the thoughts and behaviour of a group of people, but it is epistemically objective since it was shared by some people. Second, religion is real because it has a distinctive causal power in society which is irreducible to other social categories, such as, class, race, and gender.

Religion is an objective social fact because its existence does not depend on individual subjective judgments. In other words, the existence of Islam, Christianity, Hinduism, etc., is not exhausted even if I say that they are only fairy tales. This is not much different from the existence of a state; Indonesia will still exist as a state even though I claim that it is just a

mythology. It is true that religion, in a certain sense, is a social construction, but it is precisely this construction that preserves its existence through collective intention on certain beliefs and practices that is shared by a group of people. The initial mistake of social constructionists is assuming that being a realist and being constructionist are mutually exclusive. In a sense, paraphrasing Talal Asad, believing something that only exists in imagination and is constructed in such a way as something real in the world is a mistake. This assumption is by all means an exaggeration, if not misleading, because at the same time it implies that social reality is not real. It suggests that the whole social entities, such as race, gender, family, state, etc., do not exist at all, or they might exist but not real. As a consequence, if we embrace this kind of ontological commitment, we cannot explain why some people are persecuted because they are black, a woman, LGBTQ; or why a mother is willing to die for her children, and of course, we cannot provide an explanation why a person is under discrimination simply because he is a Muslim.

The problem is, as the main concern of social constructionists, what does make something a religion? What does make, for example, Islam, Christianity, Hinduism, etc., a religion while not for Marxism, Leninism, Communism, etc.? In more specific question, what makes a practice or belief religious? On that matter, social constructionists argue that religion has no reference in the real world which is distinct from other cultural phenomena. In many cases, religious practice can never be singled out from other domains of human life. Hence, quoting Fitzgerald, "it picks out nothing distinctive and it clarifies nothing."

For this reason, the New Critics of religious freedom ar-

gue that introducing the category of religion in the constitution and political policies is problematic. As I have noted, there are at least two significant objections raised. First, any attempts to define religion and demarcate between religious and non-religious practice always privilege some and disprivilege others. It explains why, in many cases, instead of protecting minorities, religious freedom provides legitimacy for the majority to establish and preserve their power. Second, thus, special enumeration of religion in the constitution and international bills of human rights is indispensable because everything that is aimed to be protected is already covered by other rights to freedom; expression, association, opinion, and so on.

To overcome such objections, I have argued that definitional problems of religion do not necessarily exhaust the existence of religion so that we could or even should dispose and deny the concept of religious freedom. It has been argued that there is no unproblematic way to define everything, specifically religion. Hence, we have to move forward from an analytical approach to the pragmatic one, because in practice, any questions about definition are irrelevant to religious freedom. In other words, there is no need to define religion because the very notion of religious freedom is not aimed to protect religion per-se, but to protect the people, especially, minorities. On that matter, the state or court should never intervene in the issue of definition and interpretation of a religious doctrine because it will mostly privilege the majority. The state or court must take a hands-off and phenomenological approach to assess a certain level of cogency, seriousness, cohesion, and importance of people's belief.

Accordingly, religious freedom by all means is useful and

there is no need to replace it because every proposed concept of freedoms to replace religion, such as, opinion, expression, movement, association, and so on, is not unproblematic. They also require definition about the borderlines of the concept to determine what are included and excluded by the category. Thus, definitional problems cannot be taken into account as an excuse or argument to abolish or replace the concept of religious freedom. Moreover, instead of providing a more inclusive category to protect 'religious' beliefs and practices of the people, replacing the category of religion with 'the secular' one is reducing the space for minorities to get protection from the state, for every freedom will be valued in an equal way—praying is not more crucial than smoking, wearing *hijab* at school is not more important than wearing jeans, and so on. For this reason, I have argued that religious freedom is a necessary concept to protect religious minorities from any discriminations; either from majority groups or even governmental deviations. On the contrary, religious freedom is not necessary to legitimize the majority in establishing and preserving their power which mostly, as a consequence, discriminates against the minorities. Therefore, religious freedom, no matter how, must be defended.

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From introduction: In recent years, the shape of the discourse in religious studies has been dominated by social constructionist works. Now the concept 'religion' is therefore intensively disputed; does it truly exist? Is it real? According to social constructionists, the very notion of religion is genealogically unique to western modern civilization and is closely related to the history of colonialism. It is intertwined with modernization and secularization which tends to separate 'religious' associated with irrationality from 'secular' associated with rationality. Conceptually, 'religion' has no reference in the real world and cannot pick out a distinctive phenomenon across cultures so that is analytically useless. For these reasons, religion is considered as an illusory category and the presence of religious studies is merely to maintain such a fiction.

Hence, the main objective of this book is to provide an ontological account for the category 'religion' that is disputed in some social constructionist works and justify its significance for religious freedom. This book argues that religion exists and is real as a distinctive social category, though it is socially constructed, because it has a distinctive causal power in society; it can create discrimination as well as overcome it.

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