

1.3 De nomine and de facto

The distinction between *de jure* practices and *de facto* practices is an important one. Rights described as *de jure* (Latin for “by law”) are rights that are preserved, as the name suggests, in laws, regulations, byelaws, et cetera. Examples include the right to vote, the right to free speech, and the right of free association. Rights described as *de facto* (Latin for “by deed”) are rights that are granted simply by non-prohibition.¹² Examples include the right to choose what to have for dinner, the right to hold an opinion, and the right to use harsh language.

There are instances where one has one but not the other; for example:

- A street has a speed limit of 30kph imposed upon it. However, drivers regularly travel along the road at well over this speed with impunity. There is therefore a *de jure* no-right and a *de facto* right to exceed the speed limit.
- Abortion is legal in a given country. However, in a given province of this country, there are so few abortion clinics that access to abortion is restricted to those who can leave the province. There is a *de jure* right to abortion and a *de facto* no-right to abortion within this province.

The distinction can be extended to classification, though of course, there is no written law beyond scientific standards; rather, I am drawing an analogue between *de jure* and classification in name only (hereby termed “*de nomine*”) and between *de facto* and classification per se (“*de facto*”). Therefore there are a few examples of seeming contradictions as above:

- The Moonlooming is *de nomine* an inevitable looming of the moon but is *de facto* an avoidable pulling of the moon by an agent.
- The DPRK is *de nomine* a republic but is *de facto* a dictatorship.

As with *de jure* versus *de facto*, equivocation can arise:

P_1 Humans eat cows (e_1).

P_2 Humans breed cows to be eaten.

Q_1 Humans eat cows (e_2).

Q_2 Humans eating cows is justified.

Prima facie the problem with this argument is that it is circular: humans eat cows because humans eat cows. However, while e_1 (the tradition of bovinivory) and e_2 (one’s partaking in bovinivory) are *de nomine* identical, they are *de facto* definitionally disparate. The problem, then, is not that the argument is circular, but rather that it does not follow as a justification.¹³

¹²See Köhler, 1976.

¹³This does however become circular once it is taken into account that e_1 is ipso facto caused by e_2 , or if one contextualises the breeding of cows as fodder within e_1 .