

## Rule Making, Rule Breaking, and Power Assignment

### Suggested Citation:

*When using resources from TRAILS, please include a clear and legible citation*

Stokes, DaShanne. 1. "Rule Making, Rule Breaking, and Power Assignment." Assignment published in *TRAILS: Teaching Resources and Innovations Library for Sociology*. Washington DC: American Sociological Association. (<http://trails.asanet.org>)

### Abstract:

Laws have a profound and complex impact on our lives and those around us. In this assignment, students work with a fellow classmate to write a short, collaborative paper in which they will evaluate their experiences or perspectives with a law of their choosing in light of content presented in an assigned reading. Students pick a law that has had an impact on their life in and use sociological concepts and perspectives to identify power dynamics at play in the law. An illustrative grading rubric is included in the resource.

### Details:

<b>Resource Types</b>	Assignment
<b>Authors</b>	DaShanne Stokes
<b>Date Published</b>	11/25/2019
<b>Subject Area</b>	Political Sociology
<b>Class Level</b>	College 100
<b>Class Size</b>	Small
<b>Language</b>	English

### Usage Notes:

For an instructor working without teaching assistants with which to help distribute the work load involved in reading and grading the assignment, a class of no more than 50 students is recommended. The grading rubric is provided for illustrative purposes and may be modified to suit the needs of the instructor, students, and program. Students with concerns about working with their peers may be reassigned to work with others. The option to work alone is also available if needed for special cases at the instructor's discretion.

### Learning Goals and Assessments:

<b>Goal</b>	Learn how your life (or that of others) has been affected by a law.
<b>Assessment</b>	The written assignment requires students to demonstrate reflection on personal experiences with a law of their choosing and how the law has affected them personally.

<b>Goal</b>	Develop your sociological insight and critical thinking ability to identify power dynamics involved in a law that has affected you or others.
<b>Assessment</b>	The written assignment requires students to demonstrate sociological insight and critical thinking by applying course content to an approved law of their choosing.
<b>Goal</b>	Build your ability to use sociology by applying concepts and theories to making sense of laws and discovering ways to change laws in real life.
<b>Assessment</b>	The written assignment requires students to actively apply sociological concepts and theories in their written responses.

**Resource Files:**

citation.docx

Lecture notes.docx

Stokes-Revised-Rule-Making-Assignment.docx

## **Rule Making, Rule Breaking, and Power Assignment**

As we've seen, laws have a profound and complex impact on our lives and those around us. In this assignment, you are to work with a fellow classmate to write a short, collaborative paper in which you will evaluate your experiences or perspectives with a law of your choosing in light of what you've learned from class, our readings, and discussions. Please pick a law that has had an impact on your life in some fashion in which you identify any power dynamics at play in the law. Your topic must be approved with me before you begin, so please see me early before you begin work. Power dynamics can be overt or very subtle and can include, for example, their impact on you, your family, or your community. If you and your classmate are unable to identify a law that has impacted you, please choose a law that has impacted others. Please contact me if you have any questions, problems, concerns, or could use any help. I'm here for you and am happy to help you in any way I can.

### **Learning Objectives:**

- Learn how your life (or that of others) has been affected by a law (addressed in components on personal impact and personal change).
- Develop your sociological insight and critical thinking ability to identify power dynamics involved in a law that has affected you or others (addressed in component on power levels).
- Build your ability to use sociology by applying concepts and theories to making sense of laws and discovering ways to change laws in real life (addressed in components on theoretical application and seeking change).

Your paper should be five to seven pages in length, double-spaced, single-sided, using 12 point Times Roman font with one inch borders all around. How you divide tasks is up to you and your co-author, but you should both contribute equally to the final product. Your paper should include the following components, which will cumulatively serve as the basis for your grade (50 points possible toward final grade).

### **Required elements:**

1. Explanation and Purpose: Briefly explain the law and its purpose (a paragraph should suffice). (5 points).
2. Personal Impact: Next, think critically and identify how the law has affected you or other people. What are your experiences with the law, or what are other people's experiences? How has the law affected you or others in daily life? How does it relate to your past experiences or those of others? (5 points)
3. Theoretical Application: Next, use at least two concepts or theoretical perspectives from the assigned reading to identify what power dynamics are at play. (A "concept" is an abstract or general idea that is generalized from several particular instances. Examples of concepts from the assigned reading include "deviance" and "power," which are elaborated upon in the assigned reading. A "theoretical perspective" is a theoretical camp or view, such as from 1.) a named theory or 2.) the perspective of one or more individual sociological theorists. An example of a named theory in the assigned reading includes

“exchange theory.” Examples of theoretical perspectives from individual theorists include those discussed in the assigned reading such as Adam Smith, Max Weber, and Anthony Giddens). Identify how you know these dynamics are at play. Answer this question: How does what you have learned enable you to make sense of the law and the power dynamics involved in it or surrounding it? (10 points)

4. Power Levels: Next, address how the power dynamics you have identified play out differently at different levels (e.g., between individuals, between individuals and larger communities, between larger groups and institutions). (10 points)
5. Personal Change: Identify how what you have learned has changed your previous thinking about the law you have chosen. (10 points)
6. Seeking Change: Finally, identify what more you would need to know if you were to change the law. What do you know now about the law, and what more might you need to create change? This can include, for example, how to create leverage for change, research for further knowledge, gathering data to evaluate claims made by lawmakers or claims makers (e.g., politicians, pundits, media sources), developing research skills, etc. (10 points)

## **Grading Rubric**

You will be evaluated on the criteria noted in the assignment which are elaborated upon in the grid below. Each numbered component corresponds to the numbered “required elements” described above. Note that the descriptions below are brief and are more fully elaborated upon in the descriptions above. Your paper must meet all criteria as noted above in each required element for full credit. “Excellent” responses correspond with a “A” in that component, such as 9 to 10 points for an excellent response in #1 above (“Briefly explain...”). “Good” responses corresponds approximately with a letter grade of “B” or “C” for that question, such as 7 or 8 points for question #4 (“Next, address how the power...”). A “poor” response corresponds approximately with a letter grade of “D” or “F” for that element, such as 0 to 6 points for question #4.

<b>Component</b>	<b>Excellent</b>	<b>Good</b>	<b>Poor</b>	<b>Score</b>
1. “Explanation and Purpose”	Provides a short summary of an approved law that describes the law and its intended purpose with sufficient detail and elaboration needed for others to understand the law and its purpose.	Meets expectations, but with some mistakes or omissions, such as neglecting some information or details needed to make sense of the law and its purpose.	Does not meet expectations or rules and/or contains many errors or omissions, such as neglecting to include most of the information or details needed to understand the law and its purpose.	
2. “Personal Impact”	Demonstrates critical thinking and appraisal of how the law has affected the student personally and others, drawing on the student’s personal experiences to illustrate and support points. Adequately and concisely describes the student’s own experiences to make them understandable in context. Demonstrates how	Meets expectations, but with some mistakes or omissions, such as giving some mention of how a law has impacted the student but failing to adequately support and illustrate points with examples drawing on personal experiences.	Does not meet expectations or rules and/or contains many errors or omissions, such as giving too few or no examples to illustrate how the student and others have been personally affected by the law in question.	

	the law relates to the student's experiences with examples using sufficient detail to understand what happened.			
3. Theoretical Application	Uses two or more concepts or perspectives to critically identify power dynamics, supporting points with example or elaboration. Applies concepts and perspectives to make sense of power dynamics identified.	Meets expectations, but with some mistakes or omissions, such as using only one concept or theory rather than two or mentioning power dynamics are at play but failing to adequately illustrate by way of example how the student knows these dynamics are present.	Does not meet expectations or rules and/or contains many errors or omissions, such as not using at least one concept or theory, failing to consider how power dynamics are at play, or failing to give any examples or illustration to demonstrate how power dynamics are involved.	
4. "Power Levels"	Critically identifies how power dynamics operate at each of the three different levels identified, using at least one example to illustrate and support points made at each level.	Meets expectations, but with some mistakes or omissions, such as identifying power at two levels rather than all three, or failing to adequately illustrate points made except at two levels identified.	Does not meet expectations or rules and/or contains many errors or omissions, such as identifying how power operates at only one level or failing to identify levels at all, or failing to adequately illustrate points made except at one level identified.	
5. "Personal Change"	Demonstrates critical reflection in identifying how the student's learning has changed, drawing on identification of what the students	Meets expectations, but with some mistakes or omissions, such as claiming that the student's thinking has changed but	Does not meet expectations or rules and/or contains many errors or omissions, such as failing to give any consideration to how the student's thinking has changed.	

	<p>thought previously and what they think now using examples to illustrate and support points and/or conclusions made. Must identify how thought previously, how think now, and identify how thinking changed from before to after.</p>	<p>failing to identify how the student’s thinking has changed by way of before and after comparison and illustration that enables the reader to understand and “see” how the student’s thinking has changed.</p>		
<p>6. “Seeking Change”</p>	<p>Demonstrates critical reflection on what the student knows now and contrasts this with that more the students may need to know in order to change the chosen law, drawing on at least one example to illustrate and support points made.</p>	<p>Meets expectations, but with some mistakes or omissions, such as giving only superficial thought to how to create change or failing to adequately illustrate and support points made so that they are clear and understandable.</p>	<p>Does not meet expectations or rules and/or contains many errors or omissions, such as neglecting to consider how to effect change or giving no illustration or examples to support points.</p>	
			<p><b>Total</b></p>	

## **Rule Making, Rule Breaking, and Power Assignment Instructions for Instructors**

This resource serves as an adaptable resource introducing students in courses like Criminology, Deviance, Political Sociology, and Sociology of Law to the power dynamics involved in rule making and rule breaking. The written assignment requires students to collaborate with a peer and to critically evaluate a law of their choosing with which to apply sociological concepts and theories. The assignment goals are to develop students' sociological insight and critical thinking ability to identify power dynamics involved in a law that has affected them or others. The assignment goal is also to build students' ability to use sociology by applying concepts and theories to making sense of laws and discovering ways to change laws in real life.

### **Student Learning Objectives**

1. Learn how your life (or that of others) has been affected by a law (addressed in components on personal impact and personal change).
2. Develop your sociological insight and critical thinking ability to identify power dynamics involved in a law that has affected you or others (addressed in component on power levels).
3. Build your ability to use sociology by applying concepts and theories to making sense of laws and discovering ways to change laws in real life (addressed in components on theoretical application and seeking change).

### **Goal Assessment**

1. The written assignment requires students to demonstrate reflection on personal experiences with a law of their choosing and how the law has affected them personally (addressed in components on personal impact and personal change).
2. The written assignment requires students to demonstrate sociological insight and critical thinking by applying course content to an approved law of their choosing (addressed in component on power levels, theoretical application).
3. The written assignment requires students to actively apply sociological concepts and theories in their written responses (addressed in component on theoretical application).

### **Materials Needed**

A copy of the handout for each student. This can be made available in printed form or available online as available.

Students must be provided with a copy of the assigned reading accompanying this assignment, below:

Piven, Frances F. and Richard A. Cloward. 2005. "Rule Making, Rule Breaking, and Power." Pp. 33-53 in *The Handbook of Political Sociology: States, Civil Societies, and Globalization*, edited by T. Janoski, R. R. Alford, A. M. Hicks, and M. A. Schwartz. Cambridge: Cambridge University Press.



**Time required**

A One hour lecture is sufficient to cover the assigned reading intended to accompany the assignment and to review the assignment and answer questions. Additional periodic check-ins during class or outside of class with students will help to answer any questions or concerns that may arise.

**Prior Learning**

Students need to have read the assigned reading prior to beginning the assignment.

**Ideal Class Size**

For an instructor working without teaching assistants with which to help distribute the work load involved in reading and grading the assignment, a class of no more than 50 students is recommended.

**Adaptations**

The grading rubric is provided for illustrative purposes and may be modified to suit the needs of the instructor, students, and program.

Students with concerns about working with their peers may be reassigned to work with others. The option to work alone is also available if needed for special cases at the instructor's discretion.

**Other Notes**

Instructors can help students with some previous discussion about what a law is and with some examples that the instructor can give in a previous class or when giving the assignment. Instructors can also help students with some previous discussion about what is meant by "concept," "theory," and "theoretical perspective."

## Brief lecture notes

So, today I'll be talking about the rule making, rule breaking, and power. But before I do, I want to start off asking you a few questions:

- Did you know that in Georgia it is illegal to eat fried chicken with anything other than your fingers?
- Did you know that in Washington it is illegal to poach a sasquatch?
- Did you know that in PA it is illegal to sleep on a refrigerator outside?

These are admittedly some very bizarre laws, but they illustrate a few central points about my discussion today. But one of the points I'd like to make today is that law is something that penetrates our lives in complex ways on a daily basis, sometimes in ways that are bizarre, sometimes outrageous, sometimes ways we don't even see. Another point is that rule making and rule breaking, conformity and deviance, reflect social relationships. Why people make rules, and why they break rules, can also help to illuminate the larger struggle for power in our society.

Three Objectives for today's class (each of which forms a separate mini-lecture / activity / segment / activity):

- a) Main Idea / Goal 1:** Rules are constructed socially and are embedded in larger relationships.
- b) Main Idea / Goal 2:** Power is relational and interdependent.
- c) Main Idea / Goal 3:** Domination is never complete. People have agency (free will) and can resist.
- d) Main Idea / Goal 4:** Introduce you to terms and perspectives to deepen your critical thinking ability, and develop your ability to do sociology by applying concepts and perspectives to make sense of a law of your choosing (take home assignment).

## Slavery

So, to help you get a sense of what I'll be talking about, I want to talk a little about slavery. This admittedly isn't an easy topic, but in sociology we often tackle big problems and hard topics, and the topic of slavery that will help you to see what it is I'm talking about when we talk about rule making, rule breaking, and power and it'll help you see slavery in a deeper way through sociology.

Slavery started in America in 1619 when a Dutch ship brought 20 African slaves to America. In time, more and more were brought over, until an estimated 6 to 7 million were brought over against their will as slaves.

In modern societies, the rules that sustain important forms of domination are typically formulated and imposed by the state, such as through laws, the courts, and justice system. This argues that the most telling kind of power, at least in modern societies, is political power.

Rule making is, whatever else it may be, a power strategy with which some people try to make others do what they want. Rules do this by specifying the behaviors that are permissible by different parties in interdependent relations. And because the rules are fashioned to reflect prevailing patterns of domination, they prohibit some people but not other people from using the leverage yielded by social interdependence.

These are things we saw in the institution of slavery.

Slavery quickly became an **institution**. And it was an institution upheld with a complex web of laws.

--In 1787, the Constitution, for example, held that, for counting population purposes, every three out of five slaves were counted as people.

--In 1793, the First Fugitive Slave Act made it a crime to interfere with efforts to capture runaway slaves

--In 1857, in Dred Scott v. Sandford, the U.S. Supreme Court held that the Constitution did not grant citizenship to black people regardless of whether they were free or slaves

Though Congress outlaws the slave trade in 1808, the domestic trade continued for decades. Slavery was not abolished in the Constitution until the 13<sup>th</sup> Amendment in 1865.

One of the things a lot of people don't realize is that, despite the might of institutionalized slavery, many people did, in fact, resist, as we'll see in this short video clip.

**>>SHOW SHORT VIDEO FROM HISTORY CHANNEL (2:45)**

History Video: ([review this only if can't play the video](#))

People ask why there weren't more rebellions, but there were hundreds we don't know about.

Most famous was Nat Turner's revolt in 1831. Led series of attacks on whites in Virginia. In one case, they stormed a school and killed a teacher and a dozen children.

Turner said kids were groomed from a young age to be slave owners.

Why this didn't happen more: Slaves understood the balance of power and it was stacked against them. Hundreds would be imprisoned or lynched for even the suspicious of rebellion.

But rebellion wasn't only form of resistance. There were day to day acts of resistance, such as burning food, working slower, poisoning food, mutilating

yourself so you couldn't work... Even just finding the power to survive in that system.

## Mini-lecture One

One of the things we see if we look at the institution of slavery sociologically is that the rules and laws upholding slavery were constructed socially. And this is one of the main points I want to get across today, that rules are constructed socially, because it gets us to the idea that rules and power are embedded in larger relationships, time, and place. It also brings us to the point that rule making and breaking can be strategies of domination and resistance.

So, how do we know this?

1. Rules are constructed socially.

We know this because the rules that upheld slavery, like what we saw in the Constitution, were not written by one person and then instituted automatically. They were fought over. People had to interact with other people, try to exert power and influence over them to get their ways and to have those laws and those court decisions created and enshrined in law.

And this entire process helps to illustrate a theory we call **social constructionism**.

### **Social constructionism:**

- Reality and meaning are subjective and created through interaction rather than from innate source in the individual
- Meaning is shared: constituting a taken-for-granted reality.
- In social constructionism, a social construct is an idea or notion that appears to be natural and obvious to people who accept it, but may not actually be the case and is largely an invention of a society.

>>**ASK CLASS:** Can they think of other social constructs, things people take for granted as natural or right that maybe really aren't? Examples may include that women are inferior to men, that LGBT people are inferior to straight people, that immigrants are violent invaders...

2. As part of their social construction, rules and laws are also embedded in larger relationships, times, and places.

--What is "**embedded**": They are connected to or situated in particular relationships.

--Example: Travel internationally and foreign laws may seem bizarre, just as people in other countries may sometimes look at our laws and legal system as bizarre. That's the case, for example, when many people talk about our Electoral College, as most of the world goes by the popular vote.

--Example: Another example is if we were to look back at the bizarre laws I asked about at the opening of my talk today. If we lived in a society in which we believed sasquatch really existed

and should be protected, then a law to ban poaching them might not be funny but could instead make more sense.

--This helps to illustrate that the meaning we make when people violate rules and laws, or when they use different systems of rules and laws than our own, is embedded. It varies by time and place and context. This helps to further illustrate that rule making and breaking are not only connected to questions of power, but also bring in questions about the meanings we assign to rule making and breaking.

The social construction and embeddedness of rules and laws help illustrate that rule making and rule breaking can be tied very closely to questions of power.

--The most widely cited formulation is Max Weber's (1968:926–40): **power** is understood as “the chance of a man or a number of men to realize their own will in a social action even against the resistance of others who are participating in the action.”

--R. H. Tawney (1931:229) proposes a similar though more explicitly reciprocal definition: “Power may be defined as the capacity of an individual, or group of individuals, to modify the conduct of other individuals or groups in the manner which he desires, and to prevent his own conduct being modified in the manner in which he does not.”

**>>ASK CLASS IF THEY CAN IDENTIFY POWER RELATIONSHIPS CONNECTED TO LAWS ELSEWHERE.**

--Example: Tie to driving: If everyone did what they want while driving, there would be more accidents, so we see power of the state to force, to varying degrees, people to cooperate with agreed upon rules and laws for how to drive.

Just as rules and laws illustrate rule making and breaking as tied to power, they illustrate how rule making and breaking can be strategies of domination and resistance.

This is not to say everyone is trying to dominate everyone else or that people don't cooperate. People of course do cooperate, but this is largely a matter of self interest. And those self-interests often don't align. They're often at odds with each other. If people are constantly trying to get their way, one way of doing that is by controlling the content of rules and laws. If you set the rules and laws that others have to obey, then you have greater ability to get your way despite resistance. Therefore, we see a lot of conflict centering around rule making--who gets to make the rules, which rules are enforced—and around rule breaking, such as in resistance to those who set the rules.

--Example: Tie back to slavery: Those who made the rules, whites, made rules that helped to ensure their mastery and domination over slaves in order to profit and benefit themselves.

--Example: Another example you might think about is when you're playing board games like Monopoly: Rules guide conduct, but if you really want to dominate the game, a great way to do so is to change the rules to favor you.

--Example: That's something we saw not just in slavery, with whites changing the rules to benefit themselves, but something we see today in the constant fight over laws in Congress with Democrats and Republicans both fighting to change the laws to whatever it is they want. Whether you're a Democrat or a Republican, both sides want to get things their way, and they try to do so by changing the laws, the rules, to favor their side. And both sides try to construct these laws in ways that favor their side, such as when one party smears the other or tries to spin them in the media a certain way to construct meaning around them and thereby effect control and exert power to realize their goals despite resistance from the other party.

While rule making and breaking is tied to power, it is too simple to say everything is about power. Rules order human activities, but they can do so in ways that have little direct bearing on power and domination. Thus the rules that guide people in their everyday behavior can do much more than establish and maintain patterns of hierarchy. They make available to people the wisdom of accumulated experience, and they secure people against the totally unexpected in social encounters. They also make possible the tacit cooperation that underpins social life

Summary and recap:

Main ideas: Rules are constructed socially. Rules and power are embedded in larger relationships, time, and place. Rule making and breaking can be strategies of domination and resistance.

## **Mini-lecture Two**

In talking about rule making and rule breaking, another point I want to make is that power is relational and interdependent. The exercise of power isn't simple or straightforward. It depends on relationships.

**Relational**: This means something is characterized or constituted by a relationship

**Interdependent**: This means that one thing depends on another. They may or may not be mutually dependent. This can vary.

**>>ASK CLASS IF THEY CAN IDENTIFY INTERDEPENDENCY IN A RELATIONSHIP (e.g., family relationship)**: An example of something being relational and interdependent might be two people in a family, like a mother and daughter. They may depend on each other for things like love and support, but their dependence on each other may vary, such as the daughter being more dependent on the mother for financial support when the daughter is very young or the mother being dependent on the daughter should the mother be unable to take care of herself, as sometimes happens with advancing age. This helps to illustrate how things can be relational and interdependent, but also that relationships and interdependence can change over time.

**>>ASK CLASS IF THEY CAN IDENTIFY INTERDEPENDENCY BETWEEN DEMOCRATS AND REPUBLICANS IN PASSING LAWS**: Democrats and Republicans

may not always like each other, but they, too, depend on each other to pass laws. To pass a bill in the House and Senate, for example, you need a majority to pass the law. If your party isn't in control of either chamber of Congress or faces opposition from within the party, then that means you need more support from members of the opposite party to pass the law.

An interesting thing about relationships and interdependence is that they can generate the resources, as well as the occasions, for the exercise of power. In other words, power is embedded in the ties, the relationships, that bind people together. People have potential power, the ability to make others do what they want, when those others depend on them for the contributions they make to the interdependent relations that are social life.

--Example: We saw this in passing a law in Congress. Needing the support of others gives them leverage to extract concessions from you to win their support.

--Example: Tie back to slavery: As we saw in the video, the relationship of dependence of the slave owners on the slaves gave slaves some limited forms of leverage to resist the slave owners. We saw this, for example, when slaves resisted by working slower, poisoned food, and engaged in open revolt.

Summary and recap:

Main ideas: Power is relational and interdependent.

### **Mini-lecture Three**

So, as we've seen in the example of slavery as well as our examples of passing laws in Congress, domination is never complete. And if we want to understand why that's the case, why it is that people break the rules, we need the concept of agency and how it relates to structure.

**Agency**: The capacity to act independently and make free choices.

**Structure**: Factors that shape, limit, or even determine or limit an agent and their choices. Social structure is the stable and patterned arrangements in society that shape human behavior, such as what we talk about when we talk about something like marriage or government or public education being an "**institution**."

So what we see here is that agency and structure exist in an interdependent relationship. Agency creates and shapes structure, but structure creates and shapes agency.

--Example: People create laws, but laws limit and create people, like how we behave, how we think and see the world.

If rules are strategies of domination evolved by purposeful and reflexive human agents, challenges to these rules by other agents will take the form of defying the rules, along with other more and less legal attempts to change the rules.

The possibility for human agency, however, does not rest only on inherent capacities for reflection and innovation. Social structure itself encourages or inhibits self-consciousness and innovation, with consequences that can in turn lead to the power challenges that change structure.

--Example in changing consciousness: slavery making racial domination seem natural

Summary and recap:

- Rules are constructed socially. Rules and power are embedded in larger relationships, time, and place. Rule making and breaking can be strategies of domination and resistance.
- Power is relational and interdependent.
- Domination is never complete. Agency helps us understand why people break the rules, but agency is constrained by social structure. Agency → Structure, but also Structure → Agency

Review of terms and major concepts:

--Social Constructionism

--Embeddedness

--Power (Weber vs. Tawney)

--Actionability

--Agency

--Structure

--Interdependency

Examples used:

--slavery

--bizarre laws (sasquatch, sleeping on refrigerator, eating chicken)

--driving

--passing laws

--family relationships

--board games