



Written by [Selwyn Duke](#) on September 10, 2016

Should Athletes Who Don't Stand for the Anthem Be Punished?

Is the real issue in the Colin Kaepernick situation that an athlete won't stand for the National Anthem?

Or is it that the nation won't stand strongly against unpatriotic citizens?

One man who might assert the latter and won't be part of the problem is head coach of Team USA Hockey, John Tortorella. In fact and as Fox Sports [reports](#), "He's already making it known that he's not going to tolerate any national anthem protests from his players during the tournament. 'If any of my players sit on the bench for the national anthem, they will sit there the rest of the game,' [Tortorella told ESPN's Linda Cohn on Tuesday.](#)"



San Francisco 49ers quarterback Kaepernick has made big news recently — and [sparked a movement](#) now spreading to other teams and [players](#) — by refusing to stand for the Anthem before football games. It's a Black Lives Matter-type protest, the athlete explained, [saying](#), "I am not going to stand up to show pride in a flag for a country that oppresses black people and people of color.... To me, this is bigger than football and it would be selfish on my part to look the other way. There are bodies in the street and people getting paid leave and getting away with murder."

Kaepernick is alluding to black criminal suspects shot by police — and in particular by white officers — cases of which have made headlines in recent years. Of course, the reality is that 93 percent of black homicide victims are [murdered by other blacks](#), and most of the rest are killed by Hispanics; thus, non-Hispanic white-on-black murder is a very rare phenomenon. It's also true that the vast majority of people shot by police are white, that whites are [more likely to be shot](#) by cops relative to the races' homicide rates and the rate at which they feloniously shoot police, and that police killings of black suspects have [declined 75 percent](#) during the last few decades. Yet the issue here is not just that Kaepernick and some other people have adopted the wrong social struggle, but that many more people have adopted the wrong social code.

Reflecting this and quite different from Tortorella, the 49ers issued a statement on Kaepernick reading, in part, "In respecting such American principles as freedom of religion and freedom of expression, we recognize the right of an individual to choose and participate, or not, in our celebration of the national anthem," [reports](#) NFL.com. The site continued, "Niners coach Chip Kelly told reporters Saturday that Kaepernick's decision not to stand during the national anthem is 'his right as a citizen' and said 'it's not my right to tell him not to do something.'" Yet this is posturing. The NFL restricts freedom of expression and religion all the time, often telling athletes and other employees "not to do something." In 2014, for instance, Kansas City Chiefs player Husain Abdullah was [penalized](#) for kneeling in prayer in



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the end zone after a touchdown, New York Jets coach Rex Ryan was [fined](#) \$100,000 for shouting profanity following a victory, and Kaepernick himself was [fined](#) more than \$10,000 after being accused of using a racial slur.

Moreover, the NFL mandates much uniformity. Would the league tolerate a player who, citing symbolic sartorial expression and rejection of conformity, refused to wear his team jersey? And would the NFL be so tolerant of an athlete who sat for the Anthem as a protest against big government, the acceptance of faux marriage, Obama's "transgender" bathroom directive, or the spread of white-privilege theory? After all, everyone has a cause.

The reality is that the NFL is cowardly hiding behind the freedoms of speech and expression, which, the Constitution makes clear, only prohibit *government* trampling of those freedoms. As a private employer, the NFL can — and always does — limit what its employees can do while on the job.

In fact, it isn't unheard of for businesses' employee contracts to contain "morals clauses," which limit behavior not just on the job but also *off it*. Moreover, they can address not just criminal activity but also mandate that an employee "refrain from behavior that tends to 'shock, insult, and offend the community and public morals and decency,'" [writes](#) the *NYU Journal of Intellectual Property & Entertainment Law*. And examples of Americans fired on this basis abound. In 2007, a Catholic high-school teacher was sacked for remarrying both outside the Catholic Church and before having his first marriage annulled; Catholic schoolteachers have also been pink-slipped for practicing homosexuality. And actors Michael Nader, Charlie Sheen, and Mel Gibson all [had contracts terminated](#) for violation of morals clauses.

Then there's the 2014 case of Mozilla Corporation co-founder Brendan Eich, [forced to resign](#) from his CEO position for opposing faux marriage. His case didn't involve a violation of a morals clause but of the fashionable social code known as political correctness, and this brings us to the point: The NFL isn't kowtowing to Kaepernick because it cares, oh-so much, about "freedom of religion and expression." Rather, the issue is that our social code is corrupted — consequently, today's social pressure often dictates all the wrong things.

Writing about Kaepernick, columnist Karina Bland [told a story](#) about how her Marine father admonished her for hissing at those who didn't honor the Anthem. She wrote that her dad "explained that people get to decide, whether to stand still, or keep walking.... They can put their hands over their hearts, or let their arms hang loosely. They can remove their hats or leave them on. They can cheer proudly, or even jeer." This is what America is all about, is the idea.

And the idea is a common mistake. When someone does something wrong that he has a legal right to do is precisely when *society's* role begins. I have every right to consistently respond to others' courtesies and kindness with a string of profanity.

And they have a right to scorn, ostracize, and refuse to hire me.

Freedom goes both ways.

And the right use of freedom is meant to counterbalance (and correct) the wrong use of freedom. But when it's only used one way by one side, in the wrong way, a nation goes in the wrong direction. Apropos to this, philosopher G.K. Chesterton observed, "All conservatism is based upon the idea that if you leave things alone you leave them as they are. But you do not. If you leave a thing alone you leave it to a torrent of change." If we said we wanted nothing whatsoever to do with government and the process of lawmaking and completely departed that sphere, we wouldn't end up with no laws, nor would lawmaking cease. Some other group would assume that role and we'd end up with its laws. Likewise,



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every society has social laws (a social code), and what happens when — fancying that using social pressure is somehow un-American — conservatives and libertarians refuse to engage the social sphere? Social laws don't disappear.

It's just that some other group creates them.

And when the wrong group does, the result is what we witness all around us: The world's Brendan Eichs get axed. Atlanta Braves pitcher John Roker [is suspended](#) and ordered to undergo a psychiatric evaluation for making politically incorrect comments, while Kaepernick is applauded by some and tolerated by many. Businessmen are scorned and threatened (not to mention punished by government) for refusing to service faux weddings, amidst all other manner and form of politically correct persecution.

So sitting is the problem. When "live and let live" types sit on their hands with respect to the social sphere, it doesn't create a libertarian country. It creates a vacuum to be filled by those who will live — and cause righteousness and the republic to die.



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