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## **Speak Up and Dribble: John Stuart Mill's Freedoms and How they Apply to the Modern Political Athlete**

### **Introduction**

What two things do Jesse “The Body” Ventura and Manny Pacquiao have in common? They are both professional or retired professional athletes and they are all elected political figures. Jesse Ventura was a prominent professional wrestler who, after retirement, became mayor and then Governor of Minnesota. Manny Pacquiao is a champion of multiple boxing weight classes and a current member of the Philippine Congress and a potential candidate for president. For years athletes have been getting involved in politics, from large marque names like the ones mentioned above, to less prominent examples of people joining school boards and city councils to help their communities.<sup>1</sup> In recent years, athletes have also been vocal concerning political and societal problems since they have been given the platform to speak. They have done this not just as elected officials but also as activists. In 1968 US track stars Tommie Smith and John Carlos raised their fists in protest of police brutality of African-Americans while on the podium. However, as long as there have been politically involved athletes, there have been those discrediting their opinions and points because “they are athletes, so what do they know?” In an attempt to maintain the status quo, sometimes the political athlete has their voice silenced, such as after Smith and Carlos raised their hands at the Olympics. They were cut by team USA and

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<sup>1</sup> Abrams, Roger I. “Playing Tough the World of Sports and Politics” *Northeastern Press*. 2013. Page 11-12

not paid. In the last three years we have seen an increase of action and rhetoric attempting to limit speech by news anchors, elected officials and even from the current President of the United States, Donald Trump, who suggested the firing of anyone kneeling for the national anthem, which was a protest against police brutality.<sup>2</sup> One of the most concerning comments came from Fox News's Laura Ingraham, when she told LeBron James and Kevin Durant to "shut up and dribble" in response to their criticisms of President Trump.<sup>3</sup> This is concerning since it insinuates that one's profession dictates whether one is allowed to discuss or even have a legitimate political opinion.

Freedom of speech is one of the cornerstones of our modern liberal society. John Stuart Mill, one of the founders of liberalism, recognizes the importance of free speech and the need for citizens to have the ability to verbally question and contest government and society. Just because someone has a different career, socioeconomic status, race, or opinion than you, that doesn't allow you to silence them because that would be limiting their constitutional freedom of speech. J. S. Mill's conception of liberty, as proposed in *On Liberty*, helps us better understand how society can benefit from viewing and embracing athletes as political actors, and how they can serve as examples for the significance of free speech. In this paper I will argue this by first explaining Mill's understanding of freedom of speech and how it is supposed to operate by looking at three aspects of such speech: agonism, publicity, and truth. Then, after explaining why we should be allowing political speech to be a part of our sports world, I will look at the case of

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<sup>2</sup> McGinty, Ryan. "Fourth & Inches: Making the Lines of Athletes' Free Speech (A Colin Kaepernick Inspired Discussion)." *Pace Intellectual Property, Sports & Entertainment Law Forum*. 8(1) 2017, p. 61

<sup>3</sup> Sullivan, Emily. "Laura Ingraham Told LeBron James To Shut Up And Dribble; He Went To The Hoop." NPR. February 19, 2018. <https://www.npr.org/sections/thetwo-way/2018/02/19/587097707/laura-ingraham-told-lebron-james-to-shutup-and-dribble-he-went-to-the-hoop>

Colin Kaepernick and how his political speech of kneeling during the national anthem is beneficial to society.

### **Mill's Understanding of Freedom of Speech**

In Mill's work *On Liberty*, it is clear that he thinks humans should be progressive beings, moving from one inferior state to a better one. For him this comes from truth. Truth for Mill is the driving force behind progress: "even progress, which ought to superadd, for the most part only substitutes one partial and incomplete truth for another; improvement consistently chiefly in this, that the new fragment of truth is more wanted, more adapted to the needs of the time than that which it displaces."<sup>4</sup> He sees progress, both for the individual human and for society, as "the spirit of improvement" or "spirit of liberty." This spirit for Mill is always at odds with "the despotism of custom ... standing hinderance to human advancement, being in unceasing antagonism to that disposition to aim at something better than customary which is called, according to circumstances, the spirit of liberty, or that of progress or improvement."<sup>5</sup> These customs have been passed down from our families and friends, our societies and governments, and represent the status quo. This can be problematic though if the customs that are passed down without being challenged or understood why they are believed.

With truth being the driving force behind progress, Mill wants us to enhance the conditions in which truth can be discovered. He does not think truth is something that one is just able to know at birth or can be told by an elder or religious leader. It must be pursued, discovered, and "super-added" over a period of time through the competition of ideas. He compares this to a "marketplace of ideas" with the public speaking freely and having the ability

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<sup>4</sup> Mill, John Stuart. *On Liberty*. p. 11

<sup>5</sup> Mill p. 67

to listen and choose which ideas are best or contain the greater part of truth instead of someone choosing the “right” ideas for them. Jill Gordon writes on Mill’s conception of the marketplace and perfectly understanding the importance of stopping the “tendency of humans to coerce their fellow beings into conformity... the progress of humanity, therefore depends on preventing this enforced community.”<sup>6</sup> This is why Mill values freedom of speech so much: without it you are unable to prevent coercion by those in power.

However, some political philosophers worry that unconditional free speech may incite or lead to harm. This is especially concerning when it is in a work or school setting and those in power are responsible for others. Ryan Muldoon acknowledges this and argues the Mill’s advocacy for the competition of ideas does not equate to its endorsement and that there is a “distinction between speech and community endorsement of speech.”<sup>7</sup> Exploratory speech is what is needed to discover truth and allow ideas to compete whereas declaratory speech is limiting, something Mill agrees with when he explains fallibility, a topic I will cover in more depth later when discussing truths.

Nevertheless, there are critics of Mill’s understanding of free speech. He understands that freedom of speech has not only great power to help, but also to harm. In his second chapter he acknowledges “the free expression of all opinions should be permitted on condition that the manner be temperate, and do not pass the bounds of fair discussion.”<sup>8</sup> Daniel Jacobson understands this and does a good job explaining that Mill, “does not adopt the simple gloss” of

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<sup>6</sup> Gordon, Jill. “John Stuart Mill and the ‘Marketplace of Ideas’.” *Social Theory and Practice: An International and Interdisciplinary Journal of Social Philosophy*. 32(3) 1997.

<sup>7</sup> Muldoon, Ryan. “Free Speech and Learning from Difference.” *Society*. 54(4), 2017. p. 331

<sup>8</sup> Mill, p. 50

freedom of speech.<sup>9</sup> Using Mill's passage on the corn dealer<sup>10</sup>, Jacobson asserts, "the freedom of expression Mill advocates is the freedom to express any factual or normative opinion where opinions are understood to be individuated by their content."<sup>11</sup> Mill is not a proponent of people using their freedom of speech to incite riots and harm people. This would violate Mill's harm principle, which gives direct harm as "the only good reason to interfere with an individual's liberty of action."<sup>12</sup> While just, fair criticisms should be made to hold people accountable and show the flaws within the systems we live, using it to cause direct harm to someone, Mill would say, violates their right to liberty.

From here I would like to address three different ideas of Mill's that he uses to justify freedom of speech, all of which relate to politically involved athletes being given a voice. They are Mill's principles of agonism, publicity and different types of truth. After describing all three I will apply them to one of sport's most controversial political figures today, Colin Kaepernick, and relate it to his stance on kneeling during the national anthem.

### **Agonism and Freedom of Speech**

A criticism of Mill's *On Liberty* is that his ideas concerning liberty lean too heavily on compromise and trying to preempt conflict in the liberal-democratic framework of government. It could be said, "that liberalism, in seeking to weed out sources of conflict through procedure or consensus, effectively eliminates the spirit of politics, which thrives on continuous contestation and change ... that liberalism homogenizes ways of being by offering a universal idea of

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<sup>9</sup> Jacobson, Daniel. "Mill on Liberty, Speech, and the Free Society." *Philosophy and Public Affairs*. 29(3) 2000. p. 286

<sup>10</sup> I am not going to include the entire passage in this paper but it can be found in Mill, p.53.

<sup>11</sup> Jacobson p.286-87.

<sup>12</sup> Jacobson p. 276

personhood defined by individual rights, rational self-interest, and material preferences.”<sup>13</sup> Those such as Sheldon Wolin commend Mill for his advocacy of liberty, but believe that Mill’s argument weakens government to the point where government cannot protect liberty and freedom of speech. He argues that Mill gets rid of the competition and power that is necessary to protect liberty.<sup>14</sup> However, I would argue against that. Mill’s promotion of agonism can be seen in his advocacy for the clash of opinions.

Agonism comes from the Greek word for struggle and emphasizes the potentially positive aspects of political conflict.<sup>15</sup> Mill thinks that progress for both society and the individual rests on the competition of ideas, where the best ideas are reinforced and sharpened while the less founded ideas are discredited and used to bolster the arguments for the better ideas. In his chapter on the authority of the society and the individual he states:

Human beings owe to each other help to distinguish the better from the worse, and encouragement to choose the former and avoid the latter. They should be forever stimulating each other to increased exercise of their higher faculties and increased direction of their feelings and aims toward wise instead of foolish, elevating instead of degrading, objects and contemplations.<sup>16</sup>

For example, Brandon Turner agrees and argues that Mill’s liberalism pits the popular elements against the bureaucratic elements of government as well as the democratic against the aristocratic.<sup>17</sup> Turner contrasts the “amateur masses” with the “professional few” and sees the

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<sup>13</sup> Turner, Brandon. “John Stuart Mill and the Antagonistic Foundation of Liberal Politics.” *The Review of Politics*. 72 2010. p. 27.

<sup>14</sup> Wolin, Sheldon. *Politics and Vision*. Princeton University Press. 2004 p. 313.

<sup>15</sup> Fiske, Tim. “Agonism.” *Encyclopedia Britannica*. 2018. <https://www.britannica.com/topic/agonism-philosophy>

<sup>16</sup> Mill p.74

<sup>17</sup> In his paper Turner uses “antagonism” the same way I am using “agonism”, with his paper using a different definition of the world than I am.

conflict between them as a perfect example of Mill's agonism. Here the masses voice their opinions and force the professionals to deliberate on how they will accomplish the running of government. The professionals don't want to deliberate with the masses, but must to maintain their professional status.<sup>18</sup> Nadia Urbinati sees potential conflict in the agonism in the democratic system within which we live, yet still sees the need for agonism. She writes on the increase we have seen recently in "unpolitical democracies", also understood as illiberal democracies, arguing one of the issues being the use of deliberation as a tool against the democratic process. While holding that agonism can slow democracy, she still see the benefit of "criticism within" holding both government and individuals accountable.<sup>19</sup> This benefit comes in the form of citizens being able to voice concerns about their government and potentially vote out politicians they view as part of the problem.

Mill and Turner agree that freedom of speech is necessary for this agonism. Without the ability to express new ideas and challenge current customs, laws, and beliefs, then there will be no agonism nor the benefits that result from it. If you limit speech, either physically or through the intimidation or discrediting of critics, you lose potential truths within your opponent's argument and your own. Mill agrees, saying, "it is always probable that dissentients have something worth hearing to say for themselves, and that truth would lose something by their silence."<sup>20</sup> Criticism is something that Mill understands is usually not easy or comfortable, but needed for society and the individual to progress. Turner uses the same logic, "the antagonism [agonism] fostered by increased liberty of speech and action is, therefore, as much an act of preserving, adapting, and re-animating the past as it is an impetus for progress ... it reaffirms the

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<sup>18</sup> Turner p.33

<sup>19</sup> Urbinati, Nadia. "Unpolitical Democracy." *Political Theory*. 38(1) 2010 p.67.

<sup>20</sup> Mill p. 46

idea that, for Mill, antagonism [agonism] is to become a permanent feature of the social and political landscape.”<sup>21</sup> Agonism only works if there is a freedom of speech, specifically public speech.

### **Publicity and Freedom of Speech**

Freedom of speech only helps society if it is a public speech that can influence others or be judged by the disinterested bystander. The people being helped most by this speech aren't the ones trying to convince people of their truth, or even those with whom they are arguing. The people that benefit most are those that Mill calls “the disinterested bystander upon whom this collision of opinions works its salutary effects.”<sup>22</sup> These bystanders that make up a majority of society are the ones that benefit and eventually help push society forward. Mill believes that speech is needed for progress, which is cultivated through agonism. This agonism should not only be occurring inside our minds or between contending positions but also in the public with others. Mill contends, “genius can only breathe freely in the atmosphere of freedom,” which suggests that, by using the word atmosphere, he is looking at a large, open forum for this genius to grow.<sup>23</sup> Mill considers “no person [to be] an entirely isolated being,” with each person living with and interacting with others.<sup>24</sup> Even Mill's critics acknowledge his valuing of protecting public speech. Alan Kahan criticizes Mill's liberalism as being too “aristocratic” and potentially limited toward the majority, as being in tension with Mill's caution toward the “tyranny of the majority.” However, even in his criticisms of Mill, Kahan acknowledges Mill's advocacy for things like free press and open, agnostic dialogue to both reinforce and combat dogmatic

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<sup>21</sup> Turner p. 50

<sup>22</sup> Mill p. 49

<sup>23</sup> Mill. P. 62

<sup>24</sup> Mill p. 78

custom.<sup>25</sup> For there to even be a public opinion, there must be a forum for publicizing contentious or dissenting opinions.

With this understanding it goes without saying that Mill would be opposed to silencing members of the public. Even Mill, who is wary of public opinion turning into tyranny, would not advocate silencing speech. He says, “if all mankind minus one were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person than he, if he had the power, would be justified in silencing mankind.”<sup>26</sup> Since no one has the right to silence others, then the freedom of speech applies to everyone. With the public being an open forum, one might ask whether harmful speech should still be allowed, to which Mill would say yes, as long as it is not exciting direct harm. In another example, Muldoon sees this happening on college campuses and warns against it because even though college is about creating safe communities, he believes “it is much easier to learn from people who have different values and different perspectives and different evidence.”<sup>27</sup> While the public may want to feel safe and not be challenged, if freedom of speech is not practiced in public then the truth it holds is diminished. The public needs free speech to maintain liberty and progress toward truth.

### **Truth and Freedom of Speech**

Mill understands truth as one of the reasons we need freedom of speech. He thinks that for us to progress we must discover and understand our truths. These truths need to be tested and displayed in public so that people can explain and debate them to find the truth within a belief or statement. In not questioning our beliefs, we view ourselves as infallible since “to refuse a

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<sup>25</sup> Kahan, Alan S. *Aristocratic Liberalism*. Oxford University Press 1992. p. 67.

<sup>26</sup> Mill p. 16

<sup>27</sup> Muldoon p. 335

hearing to an opinion because they are sure that it is false is to assume that their certainty is the same thing as absolute.”<sup>28</sup> Though we know that we as humans are fallible, Mill says that few consider that fact when others question them. People tend to assume that they are right simply because it is the opinion they hold and thus feel strongly about it (and the other way around, according to Mill). That does not mean that our idea does not contain any truth, but that if we do not question it and run it through the crucible of debate and challenges, then we will usually only know part of the truth and not the whole truth. Dana Villa puts it best, “Diversity of opinion, as well as freedom of thought and discussion, are not ends in themselves but means to the gradual uncovering of a complex but ultimately singular moral truth.”<sup>29</sup>

There are three scenarios concerning truth that Mill thinks demonstrate why the silencing of dissenting voices hurts not only the silenced, but the person or community doing the silencing as well. The order with which I will present these options is not the order in which they are presented in *On Liberty*, but for the purposes of my argument, this order makes the most sense for my cases stated later. The first scenario is when “the received (silenced) opinion be not only true, but the whole truth.” This most obviously would be a disservice to everyone because the truth is being silenced. Second, if the currently held doctrine is true, “unless it is suffered to be, and actually is, vigorously and in earnestly contested ... the meaning of the doctrine itself will be in danger of being lost or enfeebled.” Even if you hold the truth, by silencing opposition you are weakening your own position by not debating and strengthening your own argument and thus better understanding it and why you hold it. Finally, and most commonly, the third scenario is, “though the silenced opinion be an error; it may, and very commonly does, contain a portion of

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<sup>28</sup> Mill p. 17

<sup>29</sup> Villa, Dana. *Socratic Citizenship*. Princeton University Press 2010 p. 89

truth; and since the general or prevailing opinion on any subject is rarely or never the whole truth, it is only by the collision of adverse opinions that the remainder of the truth has any chance of being supplied.”<sup>30</sup> For Mill, often any statement or belief contains at least a partial truth, which means restricting free speech would stop us from finding the whole truth. Raphael Cohen-Almagor addresses Mill’s conception of freedom of speech, in which he agrees with Mill’s support for “the protection of all opinions, including the most unorthodox and false.”<sup>31</sup> For Cohen-Almagor, finding the false within statements is almost as important as finding the truth, because it is still moving your position towards the truth, or at least away from error.

With this understanding of Mill and his reasoning for championing free speech, I will now show how the current practice of discrediting political athletes, which is attempting to limit their free speech, is limiting not only for these political actors, but also potentially for society as a whole. That brings me to an important question: is the sports arena a political one that demands applying Mill’s principle of free speech?

### **Modern Athletes as Political Actors**

One of the first criticisms aimed at a politically inclined athlete is that “sports is not political,” which in a literal sense is true. However, I think that in our modern society, athletes have to be considered political actors. Mill is a founder of our conception of liberalism which places an emphasis on the separation of the public from the private. The private should only be infringed upon, according to Mill, if it is causing direct harm to others. Organizations like the NFL and NBA, as well as the teams within these leagues, are considered private companies, with

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<sup>30</sup> All of the previous quotes in this paragraph are from Mill p. 50

<sup>31</sup> Cohen-Almagor, Raphael, “J.S. Mill’s Boundaries of Freedom of Expression: A Critique.” *Philosophy*. 92(4) 2017 p. 23-24.

owners that can dictate their operation and decision-making power. I would argue that it is no longer the case that these companies are operating solely within the private sphere. When athletes such as Colin Kaepernick use their political speech in such a public way it makes sports political. The sports arena has so much influence, with it being seen in restaurants, bars and homes around America, that it can no longer be considered private. The fact that political commentators are now commenting and drawing attention to sports also makes sports political. Clay Travis, a sports and politics pundit who is very critical of Colin Kaepernick, the athlete I will use as case studies later, is frustrated that the mix of sports and politics is harmful for America.<sup>32</sup> His frustration is in spite of the fact that large portions of his show are devoted to this very idea. The fact that he is both a sports and political commentator demonstrate that the two are connected. By discussing them together we as a society have changed it so that now the sports arena is no longer private. With TV and social media increasing viewership, and the inseparable nature of some political movements/actors from sports, this means that the sports arena is now also a political one based on the second aspect I will highlight, namely, publicity.

With the sports arena becoming increasingly political, we see more and more athletes becoming vocal about political issues. For example, Etan Thomas's *We Matter* is a collection of many athletes' stories from across many sports that are commenting on various political issues. From Kareem Abdul Jabbar to Chris Hayes, Thomas interviews athletes and sports personalities discussing a range of topics including police brutality, political athletes, and the Trump administration.<sup>33</sup> One of the biggest topics discussed in his book is the kneeling of Colin Kaepernick in his protest of police brutality towards minorities. Since he began kneeling

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<sup>32</sup> Hsu, Hua. "Total Offense." *The New Yorker*. 94(29) September 24, 2018.

<sup>33</sup> Thomas, Etan. *We Matter*. Akashic Books 2018. p. 1

Kaepernick has received criticism and praise from multiple sides and is currently not signed to an NFL team, partially because of his protests. With Kaepernick as my case study, I will show why limiting his speech is potentially harmful for him and society.

### **Agonism and Athletes**

The critics that are opposed to Kaepernick participating in the political arena are using their power and influence, as news pundits and political figures, to discredit him. President Trump has tweeted that Kaepernick and any other player kneeling during the anthem should be fired and that maybe this country isn't for Kaepernick.<sup>34</sup> This all began when Kaepernick decided not to stand during a preseason game in 2016 for the national anthem. When asked about it afterwards he responded, "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."<sup>35</sup> Though technically not breaking any policies of the NFL, his team (the San Francisco Forty-Niners), or the collective bargaining agreement (CBA) between the players and the league, there was tremendous backlash from the media and members of the fan base saying it was disrespectful to those who had served in the armed forces and the country as a whole. For Kaepernick, though, it is not about kneeling or disrespecting veterans, but rather expressing his perspective on systemic oppression and racism that he sees in America that leads to police brutality. Kaepernick's kneeling is a great representation of Mill's agonism.

Mill said, "there is the greatest difference between presuming an opinion to be true because, with every opportunity for contesting it, it has not been refuted, and assuming its truth

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<sup>34</sup> McGinty p. 61

<sup>35</sup> Parlow, Matthew. "Race, Speech, and Sports." *University of Richmond Law Review*. 52(4) 2018 p. 923

for the purpose of not permitting its refutation.”<sup>36</sup> This quote of Mill’s shows the difference in allowing athletes to express their opinions so they can be challenged, and limiting their speech so they can’t be refuted. The league and larger powers, like the President, are limiting the speech of Kaepernick by not employing him because sports his employment is seen as a private decision. This does nothing for increasing the dialogue between the two opposing sides on this issue of police brutality and the underlying issues of racism in America. Kaepernick’s speech is his kneeling, which breaks the traditions of the NFL and society’s expectations. That speech, the kneeling, is how he is expressing his frustration over racism. A clear racial divide seems to occur when discussing Kaepernick’s protest. While about half of Americans seem to side with Kaepernick, over eighty percent of African Americans side with Kaepernick according to research done by Intravia, Piquero and Piquero.<sup>37</sup> What makes sports, especially the NFL interesting, is that a majority of the players are part of racial minorities, giving them a more elevated platform to express their views than the average minority citizen. This should lead to more freedom of speech since they have an elevated role in society; however, their voice is being suppressed. Kaepernick is currently unemployed after bringing a valid political concern to light. By refusing to engage in debate regarding the issue and trying to undermine him as both an athlete and citizen, it is clear that those in power within the NFL, media and government are not interested in finding out the truth behind his claims.

### **Publicity and Athletes**

Athletes are some of the most public figures in America. With the increase of technology and social media in particular, athletes are more connected with the public than ever before. For

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<sup>36</sup> Mill p. 18

<sup>37</sup> Intravia, Jonathan, Alex Piquero and Nicole Leeper Piquero. “The Racial Divide Surrounding United States of American National Anthem Protests in the National Football League.” *Deviant Behavior*. 39(8) 2017 p. 1059

reference, three different athletes have more followers on twitter than the most followed news network, CNN. The current President of the United States has fewer followers than soccer star Cristiano Ronaldo. Kaepernick's daily following was estimated by ESPN to have surged 35,394 percent since he started kneeling for the anthem.<sup>38</sup> Even if one just looks at the sports these athletes play, their leagues provides them with considerable publicity. The NFL, even with the recent downward trend of ratings, is still consistently one of the most watched weekly programs on television. According to Fox Sports, Superbowl LI was the most watched US television event of all-time.<sup>39</sup> Since sports is a political arena and so many people watch sports compared to news outlets or public radio, sporting events offer a unique and public venue for the expression of political speech.

What Kaepernick is doing is trying to inform and influence public opinion. Because of the elevated status he had as an NFL quarterback, he was able to engage Mill's "disinterested bystander." Those bystanders, I would argue, are not watching the news or listening to public radio. The only people getting information from those sources are those that are not "disinterested" but "interested" citizens, those that have already made up their minds about the argument. Those watching sports are more likely to be the "disinterested bystander" and are less likely to be watching CSPAN, CNN or Fox News. Of the top ten TV shows of a random week in November (middle of football season), six are related to football.<sup>40</sup> People who may have been unaware or ignorant of the racial inequality that still exists today, Kaepernick helped bring this topic to their attention. Kaepernick's protest is a form of symbolic activism according to Cooper,

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<sup>38</sup> McGinty p. 63

<sup>39</sup> "Super Bowl LI on FOX is Most-Viewed Program in U.S. Television History." *Fox Sports*. February, 2017. <http://www.foxsports.com/presspass/latest-news/2017/02/06/super-bowl-li-on-fox-is-most-viewed-program-in-u-s-television-history>

<sup>40</sup> "Top 10 Tv Programs" *Nielsen*. November 19, 2018. <https://www.nielsen.com/us/en/top10s.html>

Macaulay and Rodriguez in their article. They classify his movement as “deliberate actions exhibited by athletes designed to draw attention to social injustices and inspire change,” a form of speech that is meant to draw attention to the underlying racism within law enforcement.<sup>41</sup> Not only his kneeling, but educating with his Know Your Rights Camp is helping inform people and supporting those in minority communities. By bringing this attention to the public’s eye Kaepernick is not trying to convince Donald Trump of the underlying racism, but Mill’s “disinterested bystander.”

### **Truth and Athletes**

When examining the truth within athletes’ free speech it is important to note that I am not personally endorsing any of these arguments. I will be using three different perspectives concerning Kaepernick’s kneeling as an example representing the three possibilities of truth within an argument. The truth values I am placing on each argument are not based in my personal beliefs but will be framed so that the best argument can be made to support my thesis.

The first scenario, “if the received opinion be not only true, but the whole truth.”<sup>42</sup> Let’s assume that Colin Kaepernick’s kneeling for the anthem to protest police brutality brings a truth to light. This would mean that silencing him would be silencing the truth. If he is silenced before allowing his position to be heard then those doing the silencing are assuming that only they have the right answer. If his position contains truth, then that means that racism is the underlying cause of the public string of cases concerning police brutality towards minority citizens. From a philosophic standpoint this is limiting society’s progress because we are being denied the truth,

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<sup>41</sup> Cooper, Joseph, Charles Macaulay and Saturnino Rodriguez. “Race and Resistance: A Typology of African American Sport Activism.” *International Review for the Sociology of Sport*. 2017 p. 16

<sup>42</sup> Mill p. 50

in this case whole truth, by those that have the influence to do so because it is dangerous to their power by proving their fallibility. If they are fallible when it comes to police brutality, then it is possible they are fallible when it comes to other truths. From a moral standpoint, if citizens are being treated unfairly and potentially losing their lives because of their race, this is a major concern that needs to be addressed, not swept under the rug because one of the prominent figures voicing their objection is an athlete. Limiting Kaepernick's speech could potentially be denying America of the whole truth.

The second scenario, "the silenced opinion be in error."<sup>43</sup> Now let us assume Kaepernick's protest is in error. If he is in error he still needs to be heard. If he is kneeling for a cause that doesn't exist than it needs to be debated and debunked, not silenced by attacking him and his supporters with threats of deportation and loss of employment. To silence a false opinion assumes infallibility and doesn't allow for the truth to be strengthened. So many people believe and support Kaepernick that if he is in error, this needs to be proved wrong so society can move closer to the truth. According to Intravina, over ninety percent of African Americans agree with the Kaepernick's protest.<sup>44</sup> With that many people siding with Kaepernick it is important to contest his ideas and prove his error to better inform the disinterested bystander. By silencing him and his supporters, those who oppose Kaepernick are not working to discover truth and are only harming their own position by not challenging and developing their own ideas, increasing their understanding of the issues he is trying to bring to light.

The final scenario, "though the silenced opinion be in error, it may ... contain a portion of truth."<sup>45</sup> Now let's assume that, like most beliefs, there is some element of truth within

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<sup>43</sup> Mill p. 50

<sup>44</sup> Intravina p. 1062

<sup>45</sup> Mill p. 50

Kaepernick's protest. While Kaepernick may not have the whole truth, it is important to find the truth within his statement, something that can't happen if speech is silenced. There is certainly evidence that supports Kaepernick's position, at least partially, that racism still exists today, if in a more subversive and implicit way. In Agyemang's paper on athletes' experience with racism and their activist response, he sees that while the racism seen today is not like that of the 1960s when athlete activism was at its peak, it still is pervasive in the minds of these athletes. This is one of the reasons he believes that athletes like Kaepernick are drawn to activism. They see microaggressions in their lives that others in their minority community do and they feel an obligation to speak up because of their elevated position within the community.<sup>46</sup> The scholarly literature and perception within the community seems to suggest that the racism Kaepernick is protesting exists. To question the extent to which it exists may be an appropriate response. Ansgar Thiel, looking at it from a European perspective, adds some interesting commentary. While he agrees with Kaepernick he thinks that some of his critics may have some valid points. This, however, does not excuse the attempted silencing of him, as Thiel calls this, "unconstitutional and unpatriotic to deny the athlete his right to protest against injustice."<sup>47</sup> It is likely that Kaepernick's protesting doesn't contain the whole truth, but it is very likely that it contains part of the truth. That means that he needs to be allowed to speak and draw attention to the issue of race so we, as a society, with Kaepernick involved, can challenge and debate so we can progress and fix the issues he has raised as concerns.

## Conclusion

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<sup>46</sup> Agyemang, Kwame, John Singer and Joshua DeLorme. "An Exploratory Study of Black Male College Athletes' Perceptions on Race and Athlete Activism." *International Review for the Sociology of Sport.* 45(4) 2010 p. 422.

<sup>47</sup> Thiel, Ansgar, Anna Villanova, Martin Toms, Lone Riis Thing and Paddy Dolan. "Can sport be 'un-political'?" *European Journal for Sport and Society.* 13(4) p. 253.

In preparing for this paper I read Frederick Schauer's "Free Speech on Tuesdays." In it he says "freedom of speech, or at least freedom of political speech broadly, is an essential component of democratic governance."<sup>48</sup> Part of his understanding of free speech is that we need to define it as free, otherwise someone with power will try to limit it. In the last few years I have seen this even more with athletes and the way their freedoms are limited. Colin Kaepernick initially had support from members of his coaching staff and teammates, but now finds himself a pariah in the NFL that many don't want to associate with him for fear of retribution. This infringement of his freedom of speech is an injustice that is harming the nation. We cannot address any of the issues Kaepernick mentioned, whether one believes them to be true or not, if society doesn't allow him to voice his opinion without infringement by NFL management and political officials.

This argument suggests that we, as a society, should be allowing political speech to be a part of our sports world. Athletes are an elevated microcosm of American citizens that do not usually get the voice and platform to speak to the nation as a whole. Instead of trying to silence them and telling them to speak somewhere else, we should be allowing them to engage with opponents and bystanders to address issues, like racism, that they believe are plaguing our country. We should be trying to seek out truth, and that is more difficult when a group of people are having their freedom of speech infringed upon. Colin Kaepernick is not the only athlete being affected by this that should be studied more in-depth. Players like Malcolm Butler and Eric Reid are current NFL players who, along with Kaepernick, have tried to raise awareness regarding the difficulties that minorities face in America concerning law enforcement. Venus Williams has been a vocal proponent of women's equality in tennis and beyond. LeBron James, perhaps the

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<sup>48</sup> Schauer, Frederick. "Free Speech on Tuesdays." *Law and Philosophy*. 34(2) 2015 p. 135.

biggest sports athlete in America, is both a strong critic of President Trump and controversial figure within the “Black Lives Matter” movement. Even conservative political athletes like Tim Tebow could and should have more research, time and opportunity given to them be both athletic actors and political actors. The roles are no longer and should not be considered, mutually exclusive.

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