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STRIKING OUT: HOW THE MLB'S BASEBALL ACADEMIES INTERFERE WITH CHILDREN'S HUMAN RIGHTS IN THE DOMINICAN REPUBLIC

by Crystal Nieves Murphy*

I. Introduction

Major League Baseball (MLB) has recently included a large number of foreign-born players in the league.¹ Specifically, many of these players are from the Dominican Republic, with Dominican players making up more than ten percent of active players on MLB Team rosters across the league.² This large number of Dominican baseball players in the MLB comes from a culture of scouting talent at a young age and the creation of baseball academies³ in Latin America as a

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1 Stuart Anderson, *27% of Major League Baseball Players are Foreign-Born*, FORBES (Apr. 27, 2018), <https://www.forbes.com/sites/stuartanderson/2018/04/27/27-of-major-league-baseball-players-are-foreign-born/?sh=76955f447712> (stating that international players are not drafted).

2 J.J. Cooper, *Which Countries Produce the Most MLB Players*, BASEBALL AM. (Apr. 7, 2021), <https://www.baseballamerica.com/stories/which-countries-produce-the-most-mlb-players/>.

3 Enrique Rojas, *Baseball Academies Thrive in the Dominican Republic*, ESPN (July 1, 2015), https://www.espn.com/blog/onenacion/post/_/id/710/baseball-academies-thrive-in-the-dominican-republic (explaining that baseball academies develop talented

whole. Currently, all thirty MLB teams have a baseball academy in the Dominican Republic where each team develops young teenagers talented at baseball.⁴

While the MLB, through its intent to develop Dominican talent, has entrenched itself as a juggernaut in the Dominican economy by spending more than half a billion dollars on Dominican baseball academies, staff, and players, it has also led to Dominican boys dropping out of school.⁵ Players between ages twelve and fourteen regularly drop out of school to concentrate on baseball with the hope of entering an academy.⁶ Many of them believe they will be able to make a living from the sport, when in reality only two percent of them will be able to do so.⁷ Dropping out of schools also has a direct correlation with higher HIV rates, teen paternity, criminal convictions, and future unemployment in the Dominican Republic.⁸

The MLB consistently makes “unofficial” agreements with children as young as twelve, which can cause them to drop out of school as they have no incentive to continue traditional schooling.⁹ Furthermore, the MLB repealed regulations that previously would not allow boys to enter a team baseball academy facility until the

players to increase the number of Dominican players in the MLB).
4 Jackeline Pou, *Dominican Teens Keep Baseball Hopes Alive, But Not Without Risks*, NBC NEWS (Oct. 9, 2019), <https://www.nbcnews.com/news/latino/dominican-teens-keep-baseball-hopes-alive-not-without-risks-n1062061>.

5 David Lagesse, *Baseball is a Field of Dreams—and Dashed Hopes—For Dominicans*, NPR (Apr. 3, 2016), <https://www.npr.org/sections/goatsandsoda/2016/04/03/472699693/baseball-is-a-field-of-dreams-and-dashed-hopes-for-dominicans>.

6 Thomas McKenna, *The Path to the Sugar Mill or the Path to Millions: MLB Baseball Academies' Effect on the Dominican Republic*, SOC'Y FOR AM. BASEBALL RSCH. (2017), <https://sabr.org/journal/article/the-path-to-the-sugar-mill-or-the-path-to-millions-mlb-baseball-academies-effect-on-the-dominican-republic/>.

7 See Lagesse, *supra* note 5.

8 Michael Lisman, *Walk-off or Trade-off? Baseball and education in the Dominican Republic*, THE DIALOGUE (March 25, 2019), <https://www.thedialogue.org/blogs/2019/03/baseball-education-dominican-republic/>

9 Christian Red & Teri Thompson, *In Latin America, Big League Clubs Are Exploiting Prospects as Young as 12, Whistleblower Told Feds*, USA TODAY (June 16, 2020), <https://www.usatoday.com/story/sports/mlb/2020/06/16/mlb-international-free-agents-deals-underage-prospects/5334172002/>.

age of sixteen.¹⁰ While a Dominican player still cannot officially sign a deal before they turn sixteen, regulations now allow for players to enter a team facility for a limited amount of time from as early as fourteen.¹¹ After this time, a player can spend up to fifteen days in a baseball team's facility every ninety days once a player is six and twelve months away from eligibility.¹² At the age fifteen-and-a-half, players can then spend fifteen total days every forty-five days at a facility.¹³

This practice of scouting at such a young age is a direct violation of the requirements of the United Nations, the Inter-American Commission on Human Rights, and the Dominican Republic, which all state that a child has a right to an education and economic safety.¹⁴ This article will explore how the MLB uses its Dominican Baseball Academies to exploit children for their labor, interfere with children's right to education, and create a physically unhealthy and unsafe financial environment for young Dominican boys.¹⁵

II. Legal Background

A. *The Dominican Republic's Deference to A Child's Right to Education*

The Dominican Republic has more safeguards for a child's right to education than the United States. This is important as despite the MLB being United States corporation, it must also follow the Dominican Republic's rules. Both the Dominican Republic and the United States have adopted and ratified the United Nation's Declaration on the Rights of the Child (the

10 Ben Badler, *MLB Changes Rules for International Signings*, BASEBALL AM. (Aug. 15, 2018) <https://www.baseballamerica.com/stories/mlb-changes-rules-for-international-signings/>

11 *Id.*

12 *Id.*

13 *Id.*

14 Ryan S. Hanlon, *School's Out Forever: The Applicability of International Human Rights Law to Major League Baseball Academies in The Dominican Republic*, 26 GLOB. BUS. & DEV. L.J. 236, 243–44 (2013).

15 Michael S. Schmidt, *Dominicans Try Shots to Boost Rising Players*, N.Y. TIMES (Oct. 24, 2009), <https://www.nytimes.com/2009/10/25/sports/baseball/25dominican.html#:~:text=SANTO%20DOMINGO%2C%20Dominican%20Republic%20%E2%80%94%20The,profit%20from%20their%20players%20prowess.>

Declaration).¹⁶ The Declaration states that children must receive a free and compulsory education; a child shall have protection against exploitation; a child shall not have employment before an appropriate age; and a child cannot enter an occupation which could affect their health.¹⁷ The MLB, by allowing teams to host baseball academies, is indirectly influencing boys to drop out of traditional schools; these baseball academies are not proper substitutions for a traditional education as they only provide English classes and American Culture courses.¹⁸ This is in direct contention with the Declaration, which pertains to a child's right to education.¹⁹ The Dominican Republic has also ratified the United Nations Convention on the Rights of the Child ("the Convention") stipulating that a state must act with the best interest of a child in mind and take action to promote regular attendance at school, this Convention gives further protections to children than the Declaration.²⁰

B. *Dominican Republic's Domestic Obligation to Protect a Child's Right to Education*

In *Yean & Bosico v. Dominican Republic*,²¹ the Inter-American Court of Human Rights (the Court) held that the Dominican Republic must uphold its promise of guaranteed access to free primary education.²² As part of the Court, the Dominican Republic must follow its decisions.²³ The Court states that the Dominican Republic must follow Article 19 of the American Convention on the Rights of the Child. It also must follow the protocol within the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights by ensuring conditions that will allow its children "full intellectual development."²⁴ Additionally, legislation in the Dominican Republic also protects

16 G.A. Res. 1386 (XIV), UN Declaration on the Rights of the Child (Nov. 20, 1959).

17 *Id.* at prins. 2. 7, 9.

18 See Lagesse, *supra* note 5.

19 See UN Declaration on the Rights of the Child, *supra* note 16.

20 Convention on the Rights of the Child, 1577 U.N.T.S. 3.

21 *Yean & Bosico v. Dominican Republic*, Inter-Am. Ct. H.R. (ser. C) No. 130, ¶ 260 (Sept. 8, 2005).

22 *Id.* at ¶¶ 185, 244.

23 INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, THE RIGHTS OF THE CHILD IN THE INTER-AMERICAN HUMAN RIGHTS SYSTEM ¶¶ 58-118 (2d ed. 2008), <http://www.cidh.org/countryrep/infancia2eng/Infancia2Cap2.eng.htm>.

24 *Id.*

a child's right to education.²⁵ Specifically, Law 136-03 protects the right to basic education, adopts methods to prevent students from dropping out of schools, and mandates orientations regarding professional careers.²⁶

II. Legal Analysis

A. *The Ramifications of a Lack of Regulations*

A player can sign a deal with a team per MLB bylaws once they turn sixteen.²⁷ While that age does not currently contradict Law 136-03's prohibition of children working under the age of fourteen, that may soon change. There is pending litigation from two baseball players who at 14, below the signing age of 16, entered into verbal contracts with the Los Angeles Angels, who are now allegedly in breach of those verbal contracts.²⁸ The two players are asking the Dominican Republic to recognize these verbal agreements as valid contracts.²⁹ If these two players prevail, the MLB may be in violation of Law 136-03, and may face consequences in the Dominican Republic. MLB's "unofficial" agreements with children are in direct opposition to the Dominican Republic's Law 136-03 because it interferes with the schooling of the child.³⁰ This case demonstrates the level of exploitation young players face as they receive promises of millions of dollars only for teams to renege and leave them without an education.³¹

Even if a team does stand by its original contract, many families become indebted to scouts or trainers who prey upon boys' dreams of being a baseball player and then take a hefty amount of the player's signing

25 Ley 136-03 Código para el Sistema de Protección y los Derechos Fundamentales de Niños, Niñas y Adolescentes [Law 136-03 Code for the Protection System and Fundamental Rights of Boys, Girls, and Adolescents] (2013) (Dom. Rep.) [hereinafter Law 136-03].

26 *Id.* at art. 46.

27 *International Amateur Free Agency & Bonus Pool Money*, THE MLB (2022), <https://www.mlb.com/glossary/transactions/international-amateur-free-agency-bonus-pool-money>

28 Martín José Adames, *Dominican Teens Sue LA Angels, Alleging Team Broke Deal*, SEATTLE TIMES (Sept. 9, 2022), <https://www.seattletimes.com/sports/mlb/dominican-teens-sue-la-angels-alleging-team-broke-deal/>.

29 *Id.*

30 See Law 136-03, *supra* note 25.

31 See Red & Thompson, *supra* note 9.

amount.³² As a result, scouts begin to look for talented kids aged eleven to fourteen.³³ The MLB does not verify these scouts' credentials. Moreover, the scouting system is incredibly unregulated, allowing scouts to charge exploitative fees up to 50 percent of a player's bonus.³⁴ These scouts appear to prioritize profit, even influencing players to take steroids and painkillers to get a competitive advantage.³⁵ Often when a player tests positive for a banned substance, the player states that they only took it because their trainer provided it.³⁶ This is in direct violation of the UN Declaration on the Rights of the Child as it bans children from working jobs that might adversely affect a child's health.³⁷ This system as it stands violates the children's international and domestic legal rights.³⁸

III. Recommendations

One possible remedy to this issue is the implementation of an international draft. This is something that the MLB has repeatedly investigated, but the MLB Players Association has been reluctant to implement.³⁹ The international draft would end the early agreements for preteen players and would create a similar system to the domestic draft.⁴⁰ Instead of Dominican players being evaluated in high school or college games, evaluations could be done through combines and showcases where a player's skills would be adjudicated in drills and simulated games by MLB-hired scouts.⁴¹ The international draft would allow children to stay in school while incentivizing the MLB to build resources

32 *Id.*

33 James Wagner, *As a Deadline Looms, the Dominican Republic Ponders a Draft*, N.Y. TIMES (July 24, 2022), <https://www.sanjuan-dailystar.com/post/as-a-deadline-looms-the-dominican-republic-ponders-a-draft>.

34 *Id.*

35 Michael S. Schmidt, *Dominicans Try Shots to Boost Rising Players*, N.Y. TIMES (Oct. 24, 2009), <https://www.nytimes.com/2009/10/25/sports/baseball/25dominican.html>.

36 *Id.*

37 See UN Declaration on the Rights of the Child, *supra* note 16.

38 See Law 136-03, *supra* note 25.

39 Maria Torres & Ken Rosenthal, *'A Failed System': A Corrupt Process Exploits Dominican Baseball Prospects. Is an International Draft Really the Answer?*, THE ATHLETIC (Jan. 20, 2022), <https://theathletic.com/3080470/2022/01/20/a-failed-system-a-corrupt-process-exploits-dominican-baseball-prospects-is-an-international-draft-really-the-answer/>.

40 *Id.*

41 *Id.*

and jobs in the Dominican Republic and other Latin American countries to scale up combines and show-cases for players around the globe.⁴² An international draft that mimics the MLB's draft in the United States would allow for Latin American players to receive bonuses similar to those received by domestic players, which has not been seen before.⁴³

Another option is to change the MLB's current scouting rules. The MLB would institute a rule saying teams cannot have any contact with a player before the age of fifteen.⁴⁴ For example, after the age of fifteen, the players can attend baseball academies, but the academies must also provide a traditional education. This would be an education on par with what a player would receive if they went to a traditional school, meaning teams would need to teach more than just English and American culture classes. There must also be systems in place to combat unqualified individuals from becoming trainers or scouts, like the implementation of a scout registration system that includes a background check.

IV. Conclusion

Players from the Dominican Republic will always be a part of the MLB. There needs to be safeguards put in place to stop these human rights violations and allow for players to continue their schooling and pursue a career in baseball without being exploited. Both the Dominican Republic and the MLB are failing to protect Dominican boys by not abiding by the laws they are subject to. Without change, the exploitation of young boys will continue, leading those boys to lose out on an education in favor of following a dream that many will not achieve.

⁴² See Red & Thompson, *supra* note 9.

⁴³ *Id.*

⁴⁴ *Id.*