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Class (AAA) Conflict: 100 Years of Exploitation

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Class (AAA) Conflict: 100 Years of Exploitation

Abstract

Major League Baseball continues to operate with an antitrust exemption courtesy of a 1922 U.S. Supreme Court ruling. That exemption is especially relevant for how MLB officials establish the conditions and terms that govern the relationship between major league teams and their minor league affiliates. Recently, the formation of advocacy groups such as Minor League Advocates has led to several lawsuits against MLB's violations of state labor laws through the terms of their minor league player contracts, which pay players well below state minimum wage levels. These lawsuits are posing challenges to the legal validity of the antitrust exemption. This article will examine why MLB has been able to maintain this exemption over the decades, despite periodic challenges. Further, this article seeks to place this in a political context which identifies the ways in which this conflict has been shaped by class antagonism. Though previous scholars have analyzed this struggle in legal terms, we approach it from a critical political perspective.

Keywords

Minor League Baseball, Unionization, Collective Bargaining, Anti-Trust

“...the exhibition, although made for money would not be called trade or commerce in the commonly accepted use of those words. As it is put by the defendants, personal effort, not related to production, is not a subject of commerce.”

-Justice Oliver Wendell Holmes in *Federal Club v. National League* (1922)

“It is the players that obtain the greater benefit from the training opportunities that they are afforded than the clubs, who actually just incur the cost of having that training.”

-Elise Bloom, representing Major League Baseball in federal court, arguing that minor league players should not be paid for taking part in Spring Training. February 11, 2022.

Introduction

The contention that the historical relationship between Major League Baseball (MLB) and its minor leagues (MiLB) is one of exploitation is hardly controversial. Operating as a cartel, the owners who make up the MLB have consistently paid shockingly low wages to the thousands of ballplayers who make up their developmental system - treating these players as serfs within their feudal monopoly. Protected by legal decisions of an unelected Supreme Court as well as legislation herded through Congress at the behest of MLB, minor league players had remained, until late in 2022, unprotected by a union or by anti-trust laws passed in the early 20th century. Since the rough outline of the current system emerged in 1903, this power structure has reinforced the worst tendencies of MLB owners to treat minor league players differently than their major league counterparts – not only grossly so in compensation, but also in terms of facilities, benefits, and bargaining. The exploitation of minor leaguers has been reinforced historically by the early decades of racial segregation, exclusion, and discrimination in the majors and the minors, followed by increased emphasis on international recruiting at low costs to buttress the ongoing system of minor league exploitation.¹

Of the three “major” professional sports leagues in the United States, only MLB utilizes a developmental minor league system which is covered by a contractual subsidiary relationship that treats players as professionals as opposed to amateurs. Both the National Football League (NFL) and the National Basketball Association (NBA) externalize the costs of developing talent by relying on an arms-length relationship to prepare the next wave of professional athletes under the laughable idea of “amateur” collegiate leagues.² Regardless, in many ways MiLB as a professional developmental league mirrors more the structure of European, as opposed to North American professional sports teams, although with much lower signing bonuses, wages, and

¹ See three excellent histories of segregation and the fight for integration: Jules Tygiel, *Baseball's Great Experiment*, Oxford University Press, 2008; Chris Lamb, *Conspiracy of Silence: Sportswriters and the Long Campaign to Desegregate Baseball*, University of Nebraska Press, 2012; and Ryan Swanson, *When Baseball Went White: Reconstruction, Reconciliation and Dreams of a National Pastime*, University of Nebraska Press, 2014.

² The college “minor leagues” are evolving, and in the last year college athletes have generally been able to monetize their “name, image, and likeness” to garner compensation. See “College Athletes Cash In as Generations of Rules Fade Under Pressure”, *New York Times*, July 1, 2021:

<https://www.nytimes.com/2021/07/01/sports/ncaafotball/ncaa-college-athletes-endorsements.html>

guarantees for its workers – not to mention the ability to control their talent for the first 6 years of major league service.³

In recent years, scholarship on this subject has grown more robust, however much of the previous research has been framed around a few selective themes. Most of the analysis focuses on the legal relationship of professional baseball to US antitrust provisions. This usually takes the form of law review articles focused on the failure of the Supreme Court to hold MLB to anti-trust regulations in *Federal Club v. National League* (1922), and their later failure to rectify that decision in either *Toolson v. New York Yankees* (1953) or *Flood v. Kuhn* (1972).⁴ Still others analyze the lack of an effective union for minor league baseball players and underscore the significance of the fact that the Major League Baseball Players Association (MLBPA) can only collectively bargain on behalf of major league players. Though the MLBPA was created in 1954, they did not achieve a collective bargaining agreement with MLB until 1968 under the decisive leadership of Marvin Miller, who made a strategic decision to exclude MiLB players believing that since they were eager to make the majors, they were unlikely to take the risk of confronting MLB's owners.⁵ Finally, more recently economists and baseball statisticians have begun to examine the way in which the continued and repeated exploitation of minor league players works to increase profits, reduce costs, and most importantly drive down the cost of talent acquisition.

In this paper, we argue that each of these themes make up a significant part of the legacy of the exploitation of MiLB players by the owners of major league teams. Our point of departure is that we argue that evaluating each of these in isolation obscures a larger story of a complex relationship of legal, political, and economic manipulation covering over 100 years of US history. The oppression of minor league players is exemplified by the legal hurdles which have been erected, and by their lack of collective bargaining, but we argue these are merely characteristics of a system which increasingly seeks to use its monopoly status and historical position as “America’s pastime” to drive down costs on the game’s most vulnerable in a successful effort to lower the cost of talent acquisition and maximize profits. This has been a multi-pronged effort, involving repeated negotiations between MLB and the MLBPA over collective bargaining agreements, which both directly and indirectly affect MiLB, congressional lobbying efforts by MLB to bolster the legal regime which protects owners from paying fair or living wages and abiding by federal regulations, and a changing focus for MLB teams in how they value and compensate talent. The net result is an evolving constellation of labor market manipulation which in many ways mirrors changes in global capitalism over time, and is exemplified in the most recent contraction of MiLB franchises in 2020 – an effort by MLB to use

³ Though the NBA began putting more investment in their own developmental league in 2001 (known as the “G League” since 2017) this exists largely as a place to train mid-range talent with, rather than a starting point for a professional career.

⁴ Interestingly, the US Supreme Court’s recent unanimous ruling on compensation for collegiate athletes raises eyebrows when contrasted with MLB rulings, as Justice Kavanaugh wrote in a concurring opinion: “Nowhere else in America can businesses get away with agreeing not to pay their workers a fair market rate on the theory that their product is defined by not paying their workers a fair market rate... and under ordinary principles of antitrust law, it is not evident why college sports should be any different. The N.C.A.A. is not above the law.” See:

<https://www.nytimes.com/2021/06/21/us/supreme-court-ncaa-student-athletes.html>

⁵ Lily Rothman, “Emancipation of the Minors,” *Slate* April 3, 2012: [Minor league union: Thousands of pro baseball players make just \\$1,100 per month. Where is their César Chávez? \(slate.com\)](https://www.slate.com/articles/arts/sports/2012/04/03/minor-league-union-thousands-of-pro-baseball-players-make-just-1100-per-month-where-is-their-cesar-chavez.html)

collusion to ensure that costs can be cut without worrying about competitors swooping in to pick up prospects.⁶

We argue that the MLB-MiLB relationship rests on 100 years of exploitation that is legal, political, and economic in character, and more importantly, can be distinctly identified by evolving tactics and characteristics throughout several time periods that highlight clashes between MLB, the MLBPA, and MiLB. Here we locate the current period of MLB exploitation of the minors within an historical context, examining how various features of the exploitation of the minor leagues has changed over time. Each of these periods is marked by changes in the relationship between the MLB and MiLB, as well as by collective bargaining agreements ostensibly between MLB and the MLBPA, which more and more often contain language which directly impacts minor league players. We argue that in each succeeding period, the MLB has garnered more and more power over the direct control of minor league players, limitations on their salaries and working conditions, and their movement and bargaining rights. Though we will briefly cover the important contours of each period under consideration, the bulk of our work focuses on the most recent period (1990 onwards). This period is characterized by an MLB strategy to cheapen the costs of acquiring talent, externalize the costs of developing that talent, and indicates a centralization of a specific type of player acquisition strategy by MLB in order to maximize profits at the expense of MiLB and its players. In order to demonstrate both the historical continuities of MLB exploitation of the minors and the contemporary period, we develop a model of MLB exploitation of minor league players as part of a recent intensification of the minor to major league pipeline which defines the current structure of MLB.

We conclude with analysis of how minor league players are fighting back, most significantly with the recent announcement by the MLBPA that the minor league players have voted to be represented in a union led by the MLBPA and that this vote has been accepted as the basis for bargaining by the Commissioner's Office of Major League Baseball. Minor league unionization has been building over the past few years, encouraged by a series of victories by minor league players in acquiring compensation for housing and buttressed by the work of Minor League Advocates, an organization that formed as a conduit for highlighting the exploitative conditions faced by minor league players. This successful attainment of unionization is a watershed moment in the fight for better minor league working and living conditions, having the potential to substantially improve material circumstances for minor league players. But, first, we will provide an overview of the structure of minor league exploitation in historical and contemporary context.

The Structure of Minor League Exploitation in Historical Context

The ability of the Major Leagues to exploit the Minor Leagues is a function of the cartel status of MLB. The MLB cartel is a monopoly structure of power that allows MLB to eliminate competition from other professional baseball leagues. The ability of MLB to attain this market power derives from several historical trends, established at the turn of the 19th Century and officially codified in its current form in 1903. The first trend was the ultimately successful development of the National League, later joined by the American League, as a viable

⁶ Neil DeMause, "Why MLB Declared War on the Minor Leagues," *Slate*, Dec. 19, 2019. See: <https://slate.com/culture/2019/12/mlb-minor-league-baseball-contraction-kill-milb-teams-collusion.html>

professional organization backed by a league structure and revenue streams that were used to establish conditions for member teams and players.⁷ This major league structure was built upon a reserve clause that bound players to clubs for the lifetime of player contracts, which could only be abrogated by the MLB clubs through trading or releasing players from their contracts. Players had no discretion in the matter.⁸ This reserve system was also shaped by racial segregation, exclusion, and discrimination, with black players relegated to forming their own leagues and prohibited from playing at any level within the MLB.⁹

This reserve clause formed the basis for the establishment of the Major Leagues as we know it today, when the National and American Leagues reached an agreement to consolidate as a major league professional baseball organization, an MLB, in 1903. The alliance between the NL and AL overcame the emergence of an AL league that had, from 1900, challenged the reserve clause of the NL and recruited NL players to AL teams in defiance of the NL reserve clause. The battle between the NL and AL mirrored the history of infighting among teams during the late 19th Century, as the National League had established the first national agreements with other professional leagues designed to ensure that NL players would be forced to remain with their NL teams until their contracts were terminated by those NL teams, and that other leagues would agree to honor that reserve clause codified by these working agreements.¹⁰

The establishment of working agreements between MLB and the professional leagues that became known as the “minor leagues” is the second trend that consolidated MLB as the “major leagues.” In the late 19th Century, there was a complex array of professional baseball leagues and associations that vied with one another to establish consolidated leagues, revenue streams, roster stability and working agreements among league officials, teams and players. The instability of most leagues and teams defined this period as the “wild west” of professional baseball. The National League, and by 1903 the National and American Leagues, had established a league and revenue structure that had eclipsed those of competing professional associations, whose precarity and instability led those competing associations to combine in 1901 in the National Association of Professional Baseball Leagues. The Association recognized the National and later the American Leagues as the “major leagues,” and had formed to protect their own professional baseball associations by entering into agreements that would codify rules and regulations pertaining to access to players in the minors, defined as those teams who were members in the Association. In 1901, the Association signed a 10-year agreement with the National League, with the American League added as a major league party to the agreement in 1903. The agreement

⁷ Two of the best histories are Harold Seymour and Dorothy Seymour Mills, *Baseball: The Early Years*, Oxford University Press, 1989 and John Thorn, *Baseball in the Garden of Eden*, Simon and Schuster, 2011.

⁸ For comprehensive background on the reserve clause, see Lee Lowenfish, *The Imperfect Diamond: A History of Baseball's Labor Wars*, University of Nebraska Press, 2011 and Krister Swanson, *Baseball's Power Shift: How the Players Union, the Fans, and the Media Changed American Sports Culture*, University of Nebraska Press, 2016.

⁹ Sean Forman, Sean Gibson and Adam Jones, *The Negro Leagues Are Major Leagues: Essays and Research for Overdue Recognition*, Society for American Baseball Research, 2022.

¹⁰ The most comprehensive treatment of owner-player relations in the history of the minors remains Neil J. Sullivan, *The Minors: The Struggles and the Triumph of Baseball's Poor Relations From 1876 to the Present*, St. Martin's Press, 1990.

would establish the costs owed by the major league teams for acquisition of players under contract with Association teams.¹¹

This agreement between the Majors and Minors represented an extension of the reserve clause that made players subject to ownership by their clubs in perpetuity, to be voided only by clubs themselves with players having no rights to freely move from team to team or even league to league. MLB secured from its agreement with the Association the ability to pay for acquiring players from the minors at fixed rates that were below what many players would have been able to secure for themselves absent the reserve clause. In effect, the relationship established between the Majors and Minors was designed to institutionalize the cartel power of MLB by protecting its own reserve clause and establishing a working agreement with the Association to acquire players more cheaply than would be possible on the open market.

The third trend that has reinforced this Major-Minor relationship is the U.S. Supreme Court decision of 1922, which upheld a decision by a U.S. Court of Appeals to define MLB as exempt from antitrust law. This decision emerged when a rival professional league, the Federal League, sought to directly challenge the major league status of the NL and AL, and therefore the reserve clause that bound players to MLB. As several players from the NL-AL defected from their teams to join clubs in the Federal League, there were direct financial and legal challenges to the reserve clause. When the first baseman of the AL Chicago White Sox, Hal Chase, left his club for the Federal League in 1913, he also challenged the reserve clause in federal court as a violation of the Sherman Antitrust Act by encroaching on the right to labor, the right to contract and by restraining and controlling the exercise of a profession. At the same time, the Federal League broke away from the working agreement with the NL-AL and attempted to lure players away from the MLB cartel with offers of better pay, with as many as 81 MLB players joining the Federal League. In January of 1915, the Federal League challenged the MLB cartel as a violation of the Sherman Antitrust Act.¹²

However, the Federal League was unable to carry through with its legal challenge due to growing financial problems that threatened insolvency. As a result, the Federal League negotiated a settlement with MLB in which both leagues consented to the dismissal of the antitrust suit. Under the settlement, MLB paid \$600,000 to dissolve the Federal League, and two Federal League franchise owners were allowed to purchase two MLB franchises, the Chicago Cubs and St. Louis Browns, which had been struggling financially. The unevenness of the settlement (some owners in richer markets were well compensated, but others were not), led to some dissatisfaction with the terms of the agreement. One of the Federal League teams, the Baltimore Terrapins, refused to join the settlement and sued MLB for antitrust violations, leading to the famous challenge to the National League under federal antitrust law, specifically the Sherman and Clayton Antitrust Acts. The plaintiffs won the first round, as a district court found the National League guilty of antitrust violations, unlawful restriction of trade and commerce, and assessed damages to be paid by the defendants of \$80,000, which was tripled to \$240,000 under provisions of the Clayton Antitrust Act. However, the Court of Appeals reversed the

¹¹ J.J. Cooper, "A Complete History of the Working Agreement Between Major and Minor Leagues," *Baseball America*, Oct. 18, 2019.

¹² Joseph J. McMahon Jr., "A History and Analysis of Baseball's Three Antitrust Exemptions," *Sports Law Journal*, Vol. 2, Issue 2, 1995, 233-237.

decision, which was later upheld by the U.S. Supreme Court in 1922, *The Federal Baseball Club v. National League* (259 U.S. 200). This Supreme Court decision established the National and American Leagues as exempt from federal antitrust law. This ruling provided another step toward long-term consolidation of the cartel status of MLB, facilitating its dominant relationship with the minors, which has been in place in its current form from 1903 to the present.¹³

While our focus is on the most recent period of minor league exploitation by the major leagues, this historical context is necessary to appreciate how the basic terms of this relationship have been remarkably consistent in facilitating a cheap pool of professional baseball talent from the minors to the majors. The tactics used by MLB to further this exploitation have shifted across distinctive historical periods, from racial segregation to an expansion of international recruiting (especially in Latin America), but each period of the Major-Minor relationship is defined by the cartel power of MLB. How MLB has used the power of its cartel has ebbed and flowed with changes or terminations of national agreements, alongside shifting patterns of MLB control over minor league teams. By the 1920s, to better control costs of acquiring minor league talent and to better control the development of players in the minor leagues, MLB clubs began to own minor league clubs outright and to establish direct working agreements with minor league teams they did not own. Much later, as minor league clubs experienced revenue crises associated with rising costs and decreasing attendance in the late 1940s and 1950s, MLB and Minor League Baseball signed an agreement that established new terms for Player Development Contracts in 1962, committing MLB to pay for the salaries of minor league players while continuing to defer most other costs to minor league affiliates themselves.¹⁴

In 1990, the MLB insisted over objections from Minor League Baseball, that additional costs requirements be borne by minor league affiliates that involved required stadium upgrades and financing of adequate training and development complexes to the standards stipulated by MLB. Most recently, the MLB has secured cheaper access to minor league talent in the 2007 CBA with the MLB Players Association. This negotiated provision restricted minor league player movement further through changes in the terms of the Rule V draft that lengthened eligibility of players qualifying for this draft by one year, thereby increasing MLB team control over minor league players. In 2012, another CBA limited the salaries of players subject to the first-year Player Draft by capping those salaries via bonus pools that limited MLB teams' expenditures in the draft, as well as capping spending on international players through bonus pools. By 2021, the MLB forced MiLB teams to accept a reorganization of the affiliation structure as a precondition for maintaining affiliate status, including an elimination of 42 teams and a reclassification of minor league associations, locations, and affiliation status.¹⁵

Throughout each historical period that defines this relationship, MLB has been able to maintain access to a pool of minor league players whose salaries have been set within the parameters of the MLB cartel, supported by an antitrust law and, most importantly, by the revenue advantages

¹³ Roger I. Abrams, "Before the Flood: The History of Baseball's Antitrust Exemption," *Marquette Sports Law Review*, Vol. 9, Issue 2, Spring 1999, 307-309; Nathaniel Grow, "Baseball's Antitrust Exemption: A Primer," *Fangraphs*, June 4, 2015.

¹⁴ Garrett R. Broshuis, "Touching Baseball's Untouchables: The Effects of Collective Bargaining on Minor League Baseball Players," *Journal of Sports and Entertainment Law*, Harvard Law School, Vol. 4, No. 2, 2012, 57-61.

¹⁵ Garrett R. Broshuis, *Ibid.*, 76-90.

and political lobbying of MLB, which has managed to use its cartel to defeat challenges from other professional leagues and to keep the minors subordinated to the organizational and monetary privileges of the majors.

The Pipeline of Minor to Major League Exploitation: A Model

There has been significant scholarly work analyzing the extent to which MLB has been able to use its power as a monopsony to exploit major league players. Gerald Scully in his paper, “Pay and Performance in Major League Baseball,” was the first to apply monopsony theory to an analysis of the baseball labor market during the reserve clause era.¹⁶ Scully found that MLB was able to use the reserve clause to exploit major league players by tying a player to a single team indefinitely, creating monopsony control over that player’s earning ability. The result, according to Scully (and corroborated to varying degrees by other researchers), was that player salaries lagged behind their “marginal revenue product” by as much as 50 percent on the high end and 15 percent on the low end.¹⁷ Scully developed a statistical analysis to measure revenue generated by a player compared to that player’s salary. If revenue generated is equal to salary, then no exploitation was thought to occur.

In our analysis, we propose a model of exploitation that goes beyond the formula used by Scully and other researchers, though building on many of their foundational insights. Our model starts with the monopoly power of MLB to prevent competition from other leagues. Historically, this has meant monopolizing locational advantages by locating MLB franchises in the most lucrative urban areas, then preventing competition from other leagues or teams in those areas. This has provided MLB with monopoly profits that are derived from control over the entry and exit of MLB franchises. MLB ensures that a limited supply of major league teams creates increased demand for a scarce product, whose value therefore increases beyond what would be expected in a competitive market. The two indicators that are most important for determining the value of an MLB team is market size and levels of subsidization provided to MLB owners to attract and maintain an MLB team. Therefore, the monopoly cartel of MLB provides owners with substantial appreciation of team value over time (way above the stock market, contrary to the pronouncements of Commissioner Rob Manfred). Market power is also reflected in ability of teams in a monopoly cartel to “price above marginal costs in their limited market,” which recent studies have quantified.¹⁸

The subsidization of MLB owners provides another layer of team value, as do extensive tax subsidies whereby owners can depreciate costs of franchise ownership over time, resulting in owners paying significantly less in taxes as a percentage of their income compared to players. Previous models of exploitation do not take these subsidies into account, but they are crucial in analyzing the extent to which owners “invest” anywhere close to the amount of money their franchise is worth due to monopoly advantages and levels of subsidization and favorable tax

¹⁶ Gerald W. Scully, “Pay and Performance in Major League Baseball,” *The American Economic Review*, Vol. 64, No. 6, Dec. 1974, 915-930.

¹⁷ Gerald W. Scully, *Ibid.*, 924-927.

¹⁸ Gerald T. Healy III, Jing Ru Tan, and Peter Orazem, “Measuring Market Power in Professional Baseball, Basketball, Football and Hockey,” *The American Economist*, Vol. 65, Issue 2, 214-231.

policy. These monopoly advantages of team ownership have grown more robust over the past three decades, as revenue streams for MLB owners have increased dramatically when it comes to MLB stadium subsidies, capital write-offs, media and technology revenues, and ballpark and team-related revenues whereby owners can profit from investments that are connected to their ownership of MLB teams. These revenue streams captured by owners have taken their financial benefits well beyond the earnings of the players, much more so than a cursory examination of baseball's revenue distribution would suggest.¹⁹ The capturing of revenue streams by the owners that are denied to the players increases the gap between the two and means that owner's "capital investments" are often overstated.

The second factor of our exploitation model is the ongoing relevancy of the reserve clause for minor leaguers, who are under team control for seven years, and major leaguers, under team control for six years with service time manipulation allowed to extend effective control to seven years. The MLB exploitation of minor league players has never been factored into the models of player exploitation developed by Scully and other researchers. As a result, there has been an underestimation of the rates of player exploitation throughout the entirety of their professional careers. MLB has consistently exploited minor leaguers with pay that is below poverty levels, but the mechanisms of this system of exploitation have changed over time. From 1903-1920, MLB teams established National Agreements with minor league teams that allowed for the purchase of minor league players for below their market value. The agreements continued into the 1920s but were supplemented by MLB teams taking over the ownership of minor league franchises to better control the cost, process, and outcome of player development. Minor league franchises did very well under this system through much of the 1940s and early 1950s, at least the owners of these franchises did well—seeing notable increases in gate revenues that constituted a "golden age" of minor league baseball. However, minor league players, playing under an effective reserve clause, did not see a corresponding increase in salary, which remained well below revenues generated.²⁰

At the same time, several factors worked to undermine the economic health of the minor leagues during the decade of the 1950s and into the early 1960s. The advent of television and the expansion of the MLB monopoly into additional lucrative markets took away interest, attention, and attendance from minor league baseball. This led to a new agreement between MLB and the minors in 1962, when a Player Development Contract was signed that resulted in MLB paying the salaries of minor league players on affiliated teams, codifying a structure of cost obligations that would remain relatively constant until the present. MLB teams would cover the cost of player contracts, while minor league team owners would be responsible for most other expenses. By 1990, MLB required minor league teams, over their objections, to expand minor league facilities to better equip them for major league specifications when it came to maximizing the development of young players.²¹

The costs imposed on minor league teams rebounded to their favor over the period from 1990 to the present, at least to the benefit of minor league team owners, many of whom saw significant

¹⁹ Robert Faturechi, Justin Elliott and Ellis Simani, "The Billionaire Playbook: How Sports Owners Use Their Teams to Avoid Millions in Taxes," *ProPublica*, July 8, 2021.

²⁰ Jack Moore, "Minor League Wages and the New Commissioner," *The Hardball Times*, Jan. 19, 2015.

²¹ J.J. Cooper, "A Complete History of the Working Agreement Between Major and Minor Leagues," *Idem*.

increases in the value of their team, especially in larger market locations or in areas where stadiums were significantly subsidized. The efforts of MLB to create a minor league structure that is more conducive to player development has been complemented by efforts by the league to control the costs of minor league players. For our model, the means an intensification of exploitation in the pipeline from the minor leagues to the major leagues, which has increasingly shaped the structure of owner versus player revenues. In other words, the ability of MLB owners to increase their exploitation of minor leaguers has facilitated an intensification of the exploitation of young major leaguers—especially players who are short of qualifying for third year arbitration.

According to recent statistical models using WAR as a measure of marginal revenue produced by a player, MLB owners pocket approximately 87 percent of the revenue generated by first year players. Since second year players also have no bargaining power, MLB teams pocket about 85 percent of revenues produced by these players. After a player's third year, which of course can easily be delayed by service time manipulation, players are able to increase their salaries by going to arbitration. But as Travis Sawchick has shown, MLB players only receive 40 percent of their market value during their first arbitration year (year 3), 60 percent during their second arbitration year (year four) and 80 percent during their final arbitration year (year five). This exploitation of younger players is reflected in the extent to which MLB teams have increased reliance on the minor league to major league pipeline for a larger percentage of its major league product. According to Sawchick, 63.2 percent of all players in MLB in 2019 had less than three years of service time, while accounting for 53.6 percent of service time of all big league players—yet combined for only 9.8 percent of player pay. The MLB reliance on young players far exceeds the other professional sports leagues. In addition, the average length of a player's career has declined from 4.79 years in 2003 to 3.71 years in 2019.²²

MLB has worked to maximize its exploitation of the minor league to major league pipeline by extracting concessions from the MLBPA in the 2007 and 2012 CBAs that increased control of minor league players and placed caps on bonuses that first year players could receive, both in the U.S. and internationally. In 2007, MLB was able to extend an additional year of protection for minor leaguers before they became eligible for the Rule V draft. In 2012, MLB was able to win a concession from the MLBPA to implement bonus pool caps for MLB teams in the first-year player drafts, as well as securing bonus pool caps for signing international players. These limits on the costs of acquiring young players accelerated the reliance of MLB on the minor to major league pipeline, reducing the contractual salaries of mid-level free agent veterans, who had to wait longer to sign with teams in the off-seasons and whose jobs were being crowded out by a reliance on younger, cheaper players whose rates of exploitation have been increasing when considering both minor league and major league periods of exclusive team control.

In short, a comprehensive model of MLB exploitation has to include the increasingly central importance of the minor to major league pipeline. MLB owners now pocket as much as 51 to 53 percent of baseball revenues, according to estimates of revenues that include tickets, concessions, media, and merchandise.²³ MLB owners have seen a growth in these revenue

²² Travis Sawchick, "With a Labor War Coming, the MLBPA Should Start Prioritizing the 99%," *theScore*, Oct. 2021.

²³ Maury Brown, "MLB Sees Record \$10.7 Billion in Revenues for 2019," *Forbes*, Dec. 21, 2019; Maury Brown, "MLB Spent Less on Player Salaries Despite Record Revenues in 2018," *Forbes*, Jan. 11, 2019.

streams, compared to the players, in the 10-year period covering the last two CBAs, which have institutionalized lower bonuses and salaries for minor league players while keeping the first year salaries of major league players at a minimum that has not kept pace with inflation since 2012, and remains lower than any other professional sport.²⁴ However, as our aggregate model suggests, even these gaps in revenues that favor the owners are understated, unless one accounts for monopoly advantages in franchise appreciation, public subsidies, and tax breaks that accrue to owners of MLB franchises and not to players.²⁵

In addition to these trends, MLB is now intent on pursuing further cost-cutting in the minors, having recently forced minor league affiliates to “take or leave” a forced reorganization of the minor league structure, most notably an elimination of 42 teams as MLB moves to have four minor league affiliates per team.²⁶ MLB is intent on continuing to reduce minor league expenses even though they represent a small fraction of MLB costs that amount to below poverty level wages and living conditions. According to a recent study from Baseball Prospectus, MLB teams pay minor leaguers approximately \$1.5 million. It would only cost MLB teams \$5 million to pay its minor leaguers \$50,000 per year.²⁷ Yet, MLB is intent on going the other direction in aggregate terms by reducing the numbers of minor league players, though in exchange, there have been modest increases in minor league pay and, most recently, an agreement by MLB to include housing costs. Still, these measures do not amount to paying minor leaguers above poverty level wages, let alone the marginal revenue that they create for their minor league team, or the long-term value that player development in the minors provides to the major leagues as a source of low-cost, exploitable major league talent.

What is the best way to begin to reverse these trends? In our conclusion, we first analyze the impact of the recently negotiated Collective Bargaining Agreement (CBA) on the pipeline of player exploitation that we have outlined. The MLBPA secured important concessions in the new CBA that will provide significant bonuses to MLB players in their first three years of major league service, an important first step in addressing the major league pipeline of exploitation. We argue that this newly created bonus system, while a good start, needs to be expanded alongside other changes in future CBAs for young players to better match their performance with their salaries. To address exploitation of minor league players, organizations such as the relatively new Advocates for Minor Leaguers have been a good way to organize pressure campaigns socially, politically and economically on behalf of improving the working and living conditions of minor league players, most notably with recent gains in expanded spring training pay for minor leaguers and new housing benefits. Over the longer term, we argue that the most meaningful and impactful way that minor leaguers can bargain for better salaries and working conditions is through unionization, which has finally been achieved in 2022, though bargaining between the minor leaguers and the MLB owners to establish the first ever union contract has yet to be undertaken.

²⁴ Travis Sawchik, “MLB’s Minimum Wage Has Fallen Behind. Players Ought to Fight to Lift It Up,” *theScore*, Nov. 2021.

²⁵ Craig Goldstein, “Deep But Playable: Privatize the Profits, Socialize the Losses,” *Baseball Prospectus*, May 12, 2020.

²⁶ Joan Niesen, “Following Contraction, Minor League Baseball Is Smaller, But Is It Better?” *Global Sport Matters*, Oct. 19, 2021.

²⁷ Marc Normandin, “Just Pay MiLB Players a Living Wage,” *Baseball Prospectus*, April 21, 2021.

Conclusion: The Latest CBA and Unionization of Minor League Players

The MLBPA withstood an owner lockout for over three months during the 2021-22 offseason, before agreeing to terms on a new CBA on March 10, 2022, which salvaged the entirety of the 2022 season. The Players Association entered these negotiations determined to address the exploitation of young professional baseball players that has accelerated with the greater utilization of the minor to major league pipeline by MLB teams. Overall, the MLBPA won some significant victories in this agreement, especially when compared to what had been the status quo, though the gains fell well short of fully addressing the gap between player productivity and salary for MLB players in pre-arbitration. The most notable gains won by the union include significant across-the-board increases for MLB players who occupy three different positions in the minor to major league pipeline of exploitation. The first category is the major league minimum, which increased from \$570,500 to \$700,000. The second category is minor league players with major league service time who are no longer on their original contract. Their salaries increased from \$90,400 with a cost-of-living adjustment to \$114,100 in 2022 and up to \$127,100 by 2026. The final category are players on 40-man rosters who are in the minors. These players received a salary increase from \$45,300 with cost-of-living adjustment to \$50,200 in 2022 and \$63,600 in 2026. In addition, the CBA included a \$50 million bonus pool to be awarded based on merit criteria to 100 players for pre-arbitration players.²⁸

The most significant advances for the MLBPA in this latest agreement are the percentage increases in monetary compensation for pre-arbitration players that cut across the major and minor league categories, within our designation of the minor to major league pipeline. While the increase in the minimum major league salary basically just kept pace with inflation since the last collective bargaining agreement, the actual scale of the increase is the largest single-year increase ever achieved, and the second largest by percentage increase.²⁹ The percentage increases in salary for minor leaguers no longer on major league contracts and for minor leaguers on 40-man rosters are also significant. In addition, the MLBPA negotiated a first-time bonus pool of \$50 million dollars for 100 pre-arb players that was a significant advance primarily because such a pool never existed before. Typically, such a change comes more slowly from one CBA to the next, but the players managed to get the owners to increase their \$10 million bonus pool to \$50 million, though it was well short of the MLBPA attempt to get \$110 million in bonus pool money. The bonus pool money, with each MLB team contributing an equal amount, will be divided according to a merit system based on awards obtained (MVP, Rookie of the Year) and based on a WAR calculation system to be determined by a six-member committee consisting of three owners and three players.

Most pre-arb players will not receive this bonus money, and the allocations, however impressive on the surface, will be concentrated among the highest achievers. While a significant gain for the MLBPA, the bonus pool money does not increase over the five-year length of the CBA. Still, the fact that the union was able to get this system established provides the players with additional bargaining space going forward. The players tried to get arbitration reduced from three years to

²⁸ Evan Drellich, "MLB's Collective Bargaining Agreement: A Guide to the Changes," *The Athletic*, March 16, 2022.

²⁹ Marc Normandin, "The MLBPA Wanted Pre-Arb Players Paid More (and They Will Be)" *Baseball Prospectus*, March 11, 2022.

two, where it had been prior to the 1985 CBA, without success. Then the players tried to increase the number of eligible major leaguers that qualified for Super Two classification, allowing those players to qualify for four years of arbitration instead of three, again without success.

It is also doubtful that this new agreement is going to have any significant impact on MLB teams continuing to rely on cheaper, exploitable player talent from the minors to the majors pipeline as opposed to signing more expensive middle-level free agents. There was very little accomplished in the agreement to incentivize big league teams spending more on their major league payroll. There is a draft lottery established that allows all non-playoff teams from the previous year to draw lottery tickets (with better odds for teams with the worst records) that determine who gets the first through six picks in the amateur player draft (as opposed to strictly awarding draft picks based on losing records). In addition, no revenue sharing payee can have a lottery pick three years in a row. No revenue sharing payor can pick in the lottery two years in a row. These are marginal changes that will fail to incentivize getting low payroll teams to spend more to be competitive, absent enforcement mechanisms that the league can use to ensure that revenue sharing money gets spent on payroll.

Left out entirely, of course, are the vast majority of minor league players who are not part of 40-man rosters and have not completed major league contracts. The plight of these players remains mostly tethered to the status quo: poverty-level wages and meager benefits, a health insurance plan that minor league players pay for and can access when they are playing. The extent to which minor league players have been able to make recent gains has been tied to the efforts of the newly formed Advocates for Minor Leaguers and the informal pressure campaigns conducted by their organization and by minor league players themselves. Most notably, recent gains have come in the area of housing guarantees, with MLB teams having agreed, beginning in 2022, to provide a housing stipend or housing facilities for their minor league players. The Advocates group compiled team report cards to monitor the progress or lack thereof among MLB teams in their commitment to paying minor leaguers for their extended spring training time in big league camps and for their commitment to ensuring that minor league players have their own bedroom in every apartment provided. Minor league players have built on the success of recent campaigns to push toward a goal that many thought would be prohibitive: union representation.

As recently as September 2022, minor league players were able to win unionization following a series of successful pressure campaigns that emboldened the confidence and organizational unity of minor leaguers. As previously discussed, these campaigns included a successful fight by minor league players to have MLB teams pay for the cost of minor league player housing. This organizing effort proved to be pivotal to shape an emerging solidarity among minor league players who began discussing how to organize for better working conditions as early as 2016 in reaction to federal legislation, “Save America’s Pastime Act.” This was a Congressional bill that declared that minor league players were not employees but rather “seasonal workers,” who therefore could be excluded from the federal minimum wage law. A small group of minor league players started talking about what they could do to improve their status, and unionization began to be posed as way to fight back.³⁰

³⁰ Emma Baccellieri, “Inside the Drive: The Minor Leaguers Who Sprung a Union on MLB,” *Sports Illustrated*, Sep. 22, 2022.

This, coupled with the formation of the non-profit group Advocates for Minor Leaguers in 2020, provided organizational momentum for minor league player solidarity. More players across every level of the minors were becoming aware of the opportunity to fight for better living and working conditions. The work of Advocates for Minor Leaguers, led by a former player turned lawyer, Harry Marino, was important in helping to bring together minor league players who were already interested in unionization. The first successful collective was waged over housing, with minor league players sharing their stories of rising housing rental expenses, their contribution to further eroding poverty wages, and showcasing the role of major league owners in forcing housing costs on the backs of minor league players. Advocates for Minor Leaguers helped organize a nation-wide publicity campaign, highlighting the difficulty of minor leaguers in finding affordable places to live. The campaign, waged through 2021, achieved success when MLB announced that the league would provide housing to nearly all minor league players beginning in 2022.³¹

That successful campaign, more than anything else, led to a more ambitious goal of unionization, which had at first been discussed by just a few players in 2016, and seemed unrealistic. By late 2021 and into 2022, minor league players felt emboldened by the housing victory and had established networks of communication across all levels of the minors as a result of that campaign. Minor League Advocates emerged from the housing rights campaign with a much bigger and more favorable profile among minor league players. Minor leaguers secured another victory in August of 2022, when MLB settled a class-action lawsuit with retired minor leaguers who had sued over not being paid during spring training in 2014.³² These victories, combined with successful organizing in favor of unionization, which gained momentum with the recruitment of a former big leaguer and long-time minor league catcher Josh Thole, who helped mobilize minor league players in favor of unionization. Thole was well-respected and well-known among major leaguers and minor leaguers. His involvement coincided with outreach to the MLBPA, whose President Tony Clark expressed support for unionization. This paved the way for unionization cards to be distributed to the minor league players in August of 2022, with over 50 percent signing the cards and MLB agreeing to recognize the minor league union, which then became a union within MLBPA, but separately constituted from the negotiations between the MLB and major league players. Advocates for Minor Leaguers dissolved, with its leadership plugged into the early stages of collective bargaining.³³

The unionization victory is a watershed campaign whose realization paves the way for minor league players to escape poverty level wages and finally bargain for better working conditions across the board. Given that the union has just been established, expect MLB to threaten further minor league contraction and loss of minor league opportunities as a tactic to weaken the bargaining power of minor league players. Fortunately, minor leaguers have proven in the successful unionization campaign that they have the capacity to organize and fight collectively for their rights. They will need to stay united and prepared to do battle with MLB in their ongoing effort to consolidate and improve upon their newly won concessions.

³¹ Evan Drelich, "Minor League Baseball Union Creates Massive Change Nearly Unthinkable 3 Years Ago," *The Athletic*, Sep. 14, 2022.

³² R.J. Anderson, "MLB to Pay \$185 Million to Settle Federal Lawsuit Filed by Minor League Players," *CBS*, August 30, 2022

³³ Baccellieri, *Idem*.