

EDITORIAL

Foreseeable Harms and Children's Right to Health

MICHAEL GARCIA BOCHENEK

Children worldwide face challenges threatening their human right to health. The Ebola outbreak, the dismantling of the United States Agency for International Development (USAID), increasing environmental exposure to toxic metals such as lead, mercury, and arsenic, and restrictions on children's sexual and reproductive health services are undermining gains made through decades of investment in education, health care, and protection from exploitation.

In May 2026, an Ebola disease outbreak caused by the Bundibugyo virus was spreading rapidly in Ituri and Nord Kivu Provinces, in the east of the Democratic Republic of the Congo (DRC). By May 25, more than 900 suspected cases and at least 220 suspected deaths were reported—one-quarter of whom were children.¹ Cases have also been reported in Kampala, Uganda, as well as in Goma, one of the largest cities in eastern DRC.²

The virus spread undetected for months.³ While there are multiple reasons for the delay, public health experts have questioned whether US foreign aid cuts and the closure of USAID in 2025 hindered the early detection of, and response to, the virus.⁴ USAID had funded surveillance, contact tracing, and similar initiatives in the DRC and elsewhere in East Africa, much of which was cut.⁵ Cuts in US funding also suspended planned improvements to water and sanitation in eastern DRC.⁶

When the administration of President Donald Trump cancelled these programs, a senior USAID official estimated that the result would be up to 18 million additional cases of malaria per year; 200,000 children paralyzed with polio annually; one million children not treated for severe acute malnutrition; and more than 28,000 new cases of infectious diseases such as Ebola and Marburg annually. The official also warned of a significant increase in child mortality in 48 countries.⁷ US funding cuts are being felt broadly, with cuts in prevention services leading to declines in testing, reduced access to pre-exposure prophylaxis, and interruptions in outreach and treatment. The US approach is also increasingly transactional: For instance, the US government offered to restore health aid to Zambia through a bilateral aid agreement, but on the condition of securing US access to its minerals, according to leaked records obtained by the *New York Times*.⁸

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The DRC and other countries on the continent have considerable expertise in the treatment of Ebola and other infectious diseases. But rapid and scaled-up logistical support is crucial in responding to an outbreak. Until last year, the United States supplied the bulk of that support. As Salim Abdool Karim, who heads the Africa Centres for Disease Control and Prevention's emergency committee, said, "Who else can bring 20 trucks in a matter of three days, have drivers, have fuel?"⁹

Foreseeable harm

To the extent that May's Ebola outbreak is a chronicle of deaths foretold, it is not unique. Pollution is another context that can have foreseeably devastating consequences for the health of children and adults. Unfortunately, examples abound of government failures to address pollution, particularly toxic contamination from mining and other extractive industries.

In Ethiopia's Oromia region, for instance, the operators of the Lega Dembi gold mine failed for years to act on media reports of pollution from the mine, and the Ethiopian government allowed the mine to reopen in 2021 after a three-year suspension without taking effective measures to reduce pollution.¹⁰ Water and soil downstream of the mine have high concentrations of heavy metals, including mercury, arsenic, and lead.¹¹ After the mine reopened, a study found dangerous levels of these metals in cow's milk in the area close to the mine.¹²

For years, people living near the mine have reported a disproportionate incidence of ill health and disabilities, particularly among newborn children. Summarizing these accounts, the Kontomaa Darimu Alliance, together with Northwestern University's human rights law clinic, reported to the United Nations (UN) Committee on the Rights of the Child:

Rates of miscarriage, stillbirth and infant mortality are uncommonly high. Many infants have been born with severe physical and developmental abnormalities that shorten life expectancy and compromise quality of life, including deformed limbs, paralysis, and mental incapacity. Local

*people, including children, have suffered debilitating health issues, including tumors, headaches, skin conditions, and vision problems.*¹³

In another example, the harmful mining, removal, and processing of lead-contaminated waste at and near a former industrial lead and zinc mine and smelter in Kabwe, the capital of Zambia's Central Province, have caused mass child lead poisoning. Decommissioned in 1994, the mine has never been cleaned up; instead, its estimated 6.4 million tons of lead-bearing waste have attracted new businesses that are moving the waste to different locations across town for extracting and processing zinc and other minerals. Lead dust blows to residential areas, contaminating homes, yards, schools, and roads and exposing up to 200,000 people to a toxic metal with no safe level of exposure.¹⁴ A 2018 study found that over 95% of children living near the former mine had elevated lead levels in their blood, and about half of these children urgently required medical treatment.¹⁵ In April 2026, several residents of Kabwe, together with a pan-African legal group and a Zambian nongovernmental organization, brought a complaint to the African Committee of Experts on the Rights of the Child over the Kabwe lead contamination, accusing the Zambian government of violating their rights.¹⁶

The list goes on. In Brazil in 2019, four months after a mining company pressured auditors to certify the safety of a dam at an iron ore mine despite obvious risks, the dam collapsed, releasing several million cubic meters of toxic mine sludge and killing at least 270 people.¹⁷ In Ghana, exposure to mercury and other toxic metals in the context of mining has caused grave health risks for local communities.¹⁸ In Peru, 8.5 million children are exposed to a daily risk of contamination from heavy metals, the country's ombuds office has found.¹⁹

In fact, "toxic contaminants are ubiquitous today," the UN Special Rapporteur on the right to a clean, healthy, and sustainable environment has observed, particularly in "sacrifice zones"—"extremely contaminated areas where vulnerable and marginalized groups bear a disproportionate burden of the health, human rights and environmental consequences of exposure to pollution and haz-

ardous substances.”²⁰ The UN Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes has also observed that children face higher levels of exposure and are more sensitive to toxics and pollution, warning of “a ‘silent pandemic’ of disability and disease associated with exposure to toxics and pollution during childhood, many of which do not manifest themselves for years or decades.”²¹

Callous disregard

There are obvious differences between US aid cuts to infectious disease surveillance, prevention, and response efforts in Africa, on the one hand, and government failures to regulate extractive industries that operate on their territory, on the other. Regulation, accompanying monitoring for compliance, and other due diligence measures are often critical means of protecting the right to health and other human rights, and when a government fails to take steps to prevent and remediate pollution and other environmental harm, it breaches its international obligations.²² Whether states have a legal obligation to provide aid to other governments is far more contested.²³ But these scenarios share a common element of flagrant carelessness.

There is no reason to believe that the officials who ordered aid cuts or who, in the words of then-Department of Government Efficiency head Elon Musk, “spent the weekend feeding USAID into the wood chipper,” intended to harm children and adults.²⁴ But they had warning of the likely consequences of these cuts, meaning that there is ample reason to conclude that they simply did not care. Put a different way, they regarded health risks as acceptable collateral consequences of their policy agenda.

In much the same way, governments that fail to effectively regulate mining and other industries are too often treating people as acceptable casualties in pursuit of profit.

Collateral harms to children

Government tolerance for harms to children is trending. Notably, governments with an anti-rights agenda have promoted policies that hurt children and their human rights. Russia and other states have used false narratives that seek to set ideas of “parental rights,” “traditional family,” and “protecting children” against child rights in general and, in particular, children’s sexual and reproductive rights.²⁵ In the United States, elsewhere in the Americas, and in parts of Europe, the framing of issues as “parental rights” is being used to block sexuality education, gender-affirming care, and education on racism and to roll back child labor laws.

The US government’s forcible family separations from 2017 to 2019 are a stark example of harm to children in the name of other policy ends. “We need to take away children,” then-Attorney General Jeff Sessions told federal prosecutors in May 2018, instructing them to carry out what he and other senior officials described as a deterrent to future irregular migration, even though he and the other architects of the policy knew or should have known that forcible family separation and the detention of children would inflict serious and potentially irreparable harm.²⁶

The Trump administration’s more recent “mass deportation” policy, under which some 400,000 people have been apprehended in immigration enforcement operations in the interior of the United States, shows similar disregard for children’s well-being. The Brookings Institution estimated in May 2026 that the mass deportation effort had separated more than 100,000 children, three-quarters of them US citizens, from their parents since January 2025.²⁷

Children’s right to health

Human rights treaties, notably the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child, set forth robust guarantees of the right to health. States commit under the covenant to promote children’s

healthy development, ensure healthy occupational and environmental conditions, and prevent, treat, and control disease, among other steps.²⁸ To implement children's right to health, the convention calls on states to provide children adequate and nutritious food and safe drinking water, ensure that families have appropriate prenatal and postnatal care, and guarantee access to education and health information for "all segments of society," among many other measures.²⁹

In principle, if not in practice, health services should be available to everyone. The covenant calls on states to create "conditions which would assure to all medical service and medical attention in the event of sickness."³⁰ Under the convention, states "shall strive to ensure that *no child* is deprived of his or her right of access to ... health care services" and "take appropriate measures ... to ensure the provision of necessary medical assistance and health care to all children."³¹

As with other economic, social, and cultural rights, the right to health is subject to "progressive realization," meaning that states are given time to implement the right in light of resource constraints, as long as they are "mov[ing] as expeditiously and effectively as possible" by taking steps on their own as well as through international cooperation and assistance.³² The UN Committee on Economic, Social and Cultural Rights, the expert group charged with interpreting the covenant and monitoring its compliance, has observed that this means that "depending on the availability of resources, States should facilitate access to essential health facilities, goods and services in other countries, wherever possible and provide the necessary aid when required."³³

Companies, in turn, have a responsibility to ensure that they do not cause or contribute to rights abuses, including abuses of the right to health, in line with the UN Guiding Principles on Business and Human Rights and other standards, notably those set by the Organisation for Economic Co-operation and Development. Specifically, companies should take steps to identify, prevent, and mitigate their human rights and environmental impacts. Where companies have caused or contributed to

human rights abuses—including by failing to use leverage over a supplier to mitigate its impact to the greatest extent possible—they should help remedy them.³⁴

* * *

As these examples illustrate, policies and practices by government and corporate actors can have dire consequences for children's health and their enjoyment of other rights. In recognition of the need for research and analysis on these topics, beginning with this issue, *Health and Human Rights* will contain a regular section dedicated to children's right to health. This section will include contributions that examine child health and development issues through the lens of human rights and children's right to health, bearing in mind the international legal framework outlined above and the UN Committee on the Rights of the Child's specific guidance on children's right to health.³⁵ Papers, perspective essays, viewpoints, and other contributions to the section might, for example, present primary research findings concerning children and their families' access to and the availability of appropriate, quality health care; discuss the impact of social, political, or other underlying determinants of health and development on children; examine children's participation in health care and decision-making; highlight the particular situation of children in conflict and humanitarian crises; and offer case studies of rights-based approaches to children's health and development.

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