Too Young for Rights, Old Enough to Be Maimed

How France Polices Its Protesting Pupils

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Since 21 September 2026, pupils across France have been protesting for more supply teachers, smaller classes and basic repairs to their leaking school buildings. By 9 October, the Ministry of Justice had counted 6,877 people placed in police custody, 86 per cent of them minors – more than 60 per cent of the 11,203 custodies Amnesty International recorded over the entire *gilets jaunes* movement. On 5 October, a 15-year-old in Lens lost his forearm when a police stun grenade exploded outside his school, according to *Die Zeit*. In Tours, a 16-year-old lost the sight in one eye, possibly after being hit by a rubber bullet; in Saint-Ouen-l'Aumône, a 14-year-old was shot in the face with a grenade launcher, breaking his jaw in two places.

On 7 October, the Interior Minister suspended the grenade model used in Lens, explaining that "we don't deal with a movement of high-schoolers like we deal with a movement of adults". The law does require different treatment, but in a specific sense: children are entitled to the same freedom of assembly as adults, and to greater protection than adults from the use of state force. France has inverted this asymmetry. Its pupils are granted less freedom in the name of their age, yet receive no additional protection from the force used against them. Where their rights are recognised at all, it is only after the fact: weapons are withdrawn after children have been maimed, bans are reviewed only after they have been reissued, and custody is examined by a judge only if it leads to prosecution.

The Asymmetry Required by Law

Article 15 of the UN Convention on the Rights of the Child (CRC) recognises children's freedom of peaceful assembly and permits restrictions only on the grounds that apply to adults under Article 21 ICCPR. Article 5 adds that children exercise their rights in a manner consistent with their "evolving capacities". German constitutional doctrine addresses this under the concept of *Grundrechtsmündigkeit* – the capacity to exercise fundamental rights in one's own name. The concept remains contested: while some scholars reject it entirely, arguing that whoever holds a right is entitled to exercise it, others tie its exercise to statutory age limits or to the child's individual maturity. During the Fridays for Future strikes, Klaus Ferdinand Gärditz applied this concept to protests: minors "of course" possess the required capacity, provided they grasp the significance of their political freedoms. Compulsory attendance rules might justify disciplinary school sanctions for missed classes, but the assembly authorities cannot invoke school law to restrict the demonstration itself.

When it comes to force and detention, however, age calls for greater restraint. In *Bouyid v. Belgium* (Grand Chamber, 2015), the European Court of Human Rights treated the applicant's minority as grounds for heightened protection under Article 3 ECHR. Article 37(b) CRC and Article 10 of Directive (EU) 2016/800 allow depriving children of their liberty only as a measure of last resort and for the shortest appropriate time. The UN Human Rights Guidance on Less-Lethal Weapons explicitly requires special safeguards for those particularly vulnerable to force, placing children first among them (§ 2.7).

Disruptive tactics do not reverse this legal asymmetry. The government's strongest counter-argument is that a school blockade constitutes an obstruction rather than an assembly, punishable as trespass under Article 431-22 of the Penal Code. Yet in *Kudrevičius and Others v. Lithuania* (Grand Chamber, 2015), the ECtHR ruled that farmers who blocked major roads for

two days were still exercising their freedom of assembly: their conduct lay at the margins of Article 11 ECHR, allowing for proportionate sanctions, but not outside its scope. The UN Human Rights Committee's General Comment No. 37 similarly protects non-violent direct action. Article 431-22, moreover, targets entering or remaining inside a school, not gathering outside its gate.

Less Freedom

Since late September, prefects have repeatedly issued short-term bans on gatherings near schools, often lasting just a day or two. Lawyers describe their work as a Sisyphean task: no sooner is a ban suspended in emergency proceedings than an almost identical one appears the next morning. Public law scholars Nicolas Hervieu and Serge Slama view this as a deliberate strategy to evade judicial review (*Mediapart*, 5 October 2026). The courts themselves do not speak with one voice: out of about a dozen interim orders issued on a single day concerning near-identical applications, Slama observed a roughly even split between suspensions and rejections.

The reasons given for these bans illustrate the inversion at play. In upholding a ban around schools in Riom, the administrative court of Clermont-Ferrand invoked pupil safety, "in particular that of the youngest" (as reported by Slama), and added that the measure did not prevent anyone from protesting elsewhere. The pupils' age, which ought to heighten their protection against state force, served instead as the primary ground for curtailing their freedom. Yet when pupils protest the state of their school, the school gate is not a random location. *Brokdorf* (BVerfGE 69, 315) recognises the organisers' right to choose the venue of an assembly, a protection reinforced by the European Court in *Lashmankin and Others v. Russia* (2017). General Comment No. 37 stresses that assemblies should be facilitated within sight and sound of their target audience. By contrast, the administrative court of Melun suspended a similar ban on the grounds that the prefect had failed to present specific facts or demonstrate that less restrictive order-keeping measures were unavailable, applying the classic *Benjamin* test (1933), under which liberty is the rule and restriction the exception.

Two instruments could render this right effective before the next ban is issued, rather than after the fact. The first stems from French law itself. In a 2003 ruling (Section, no. 259339), the *Conseil d'État* held that the administration may not re-enact a decision suspended by an emergency judge without addressing the grounds of that suspension; new circumstances are required. While prefects will always find new incidents, an order that merely recycles yesterday's reasoning under a new date fails this standard. The second instrument comes from the German legal system. Since BVerfGE 110, 77 (2004), German courts must review an expired assembly ban if there is a risk of repetition, precisely because such bans usually lapse before full judicial proceedings can conclude. The court then clarifies the legal boundaries for future occasions. French law permits an action for annulment against an expired order. However, a decision often takes years, leaving the burden of delay entirely on the applicants.

No Additional Protection

In October 2014, Rémi Fraisse, a 21-year-old botanist, was killed by a gendarme's OF-F1 grenade during a protest against the Sivens dam in the Tarn; two days later the Interior Minister suspended that grenade model. The GLI-F4 was withdrawn only after the mutilations of the *gilets jaunes* years. The ASSD stun grenade was suspended after Lens, and then only for school protests, although documents published by *Politis* in 2024 had shown that it ejects plastic and metal parts at high speed upon detonation.

In *Fraisse and Others v. France* (27 February 2025), the European Court found a violation of Article 2 ECHR: the French legal framework was not precise enough to ensure a truly graduated use of force, and the grenade had been issued without clear, protective regulations governing its use. France has since updated its rules, but strictly one weapon at a time – and always only after a weapon has claimed a victim. The Court, by contrast, demanded a framework that restricts dangerous weapons *before* anyone is hurt.

The gap lies in the yardstick. Article R. 211-13 of the Internal Security Code permits force only where "absolutely necessary" and in proportion to the disturbance to public order, which can include a blocked gate or a burning bin. The UN Guidance measures the most dangerous weapons against a far higher threshold: where weapons likely to kill or cause serious injury are used, their deployment is subject to Principle 9 of the 1990 Basic Principles, which permits such force only against an imminent threat of death or serious injury. The Guidance notes that firing flash-bang grenades directly at a person is unlawful (§ 6.1.4), that kinetic impact projectiles should not be aimed at the head, face or neck (§ 7.5.8), and that firing multiple projectiles simultaneously is inaccurate and generally incompatible with necessity and proportionality (§ 7.5.6) – reasoning that applies equally to the French dispersal grenade, which scatters rubber pellets in all directions. The *Défenseur des droits* has recommended banning the LBD launcher at demonstrations, citing the risk to children in particular. Yet, unlike the Guidance (§ 2.7), French law contains no rule that adjusts the use of these weapons to the presence of minors.

Saint-Ouen-l'Aumône shows what this means in practice. Take the prosecutor's own account as true: the boy struck a female officer, was pushed back and fell; a second officer then fired his launcher, hitting him in the face. If the threat persisted, a projectile to the face of a fallen 14-year-old was not a permissible means of countering it; if the threat had passed, the force was purely punitive. In Alençon, an officer seized a 14-year-old girl by the neck, even though the national police had officially abandoned the chokehold after the death of Cédric Chouviat. Techniques considered too dangerous for adults are being used on children.

Custody Without a Judge

By 9 October, some 5,900 minors had been placed in *garde à vue*. On paper, French law surrounds them with procedural safeguards: access to a lawyer from the outset, mandatory notification of parents, a medical examination for those under 16, video recording of every interrogation, and no extension for under-16s without bringing them before a prosecutor or judge (Articles L. 413-7 to L. 413-12 of the Code of Juvenile Criminal Justice). Defence lawyers, though, describe a different reality: teenagers arriving injured, subjected to insults and attempts at humiliation, and, in at least one instance, a lawyer barred from assisting a pupil.

Under French criminal procedure, a breach of custody rules can lead to the annulment of the evidence obtained, but that remedy can only be sought in subsequent court proceedings. Many of these custodies ended without any charges being filed. For those children, no further proceedings exist, and thus no judge before whom the procedural breach can be raised. Their detention was supervised solely by the public prosecutor, whom the European Court of Human Rights explicitly does not regard as an independent judicial authority (*Moulin v. France*, 2010). What remains is an action for state liability based on the defective operation of the justice system (Article L. 141-1 of the Code of Judicial Organisation), which requires proof of gross fault and is decided long after the child has returned home. The more baseless the custody, the less judicial scrutiny it receives.

EU law sets a different standard. Directive 2016/800 demands that depriving a child of liberty at any stage of criminal proceedings be a measure of last resort and for the shortest appropriate period (Article 10), while ensuring that children have access to an effective remedy when their rights are violated (Article 19). Police custody of a suspected minor constitutes such a stage, so France is implementing EU law when it detains pupils; the EU Charter applies (Article 51(1), as read in *Åkerberg Fransson*, 2013), including Article 24 on the rights of the child and Article 47 on effective judicial protection. A legal remedy that exists only if the state chooses to prosecute, or only upon proving gross fault years down the line, is almost impossible to reconcile with these standards. Nor can thousands of police custodies in less than three weeks – many ending without charge – be plausibly framed as a measure of last resort.

Rights before the Injury

The pupils of 2026 will be adults long before any court rules on what was done to them. International law offers at least one instrument that can intervene in time: France ratified the Third Optional Protocol to the CRC in January 2016, under which the Committee on the Rights of the Child may request interim measures to avoid irreparable harm to a child (Article 6) and inquire into grave or systematic violations (Article 13). The law already requires France to grant its pupils the same freedom as adults – and far greater protection. It must comply before the injury, not after.

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