

Enforceability of the Dangerous Weapons Act

By [Nadia Mather](#)

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The Dangerous Weapons Act 15 of 2013 ("the Act") was signed into law by President Jacob Zuma in July last year and came into force earlier this month. The Act prohibits the carrying of dangerous weapons such as pangas, metal pipes, kieries, rocks and spears at public protests and strikes.

The Act replaces all the old dangerous weapons acts that existed in the provinces and former homelands.

The application of the Act has become a topic of contention on the basis that the carrying of these items in public was, in terms of the replaced Act, already unlawful in August 2012 - being the time of the Marikana incident. Police failed to disarm thousands of heavily armed striking miners at Marikana resulting in the death of 34 people.

Ongoing strikes

With the ongoing strikes in the platinum and other mining industries, are the South African Police Service able to enforce the Act? The situation has now become intricate because the police will now have to assess the context in which a dangerous weapon is carried. The Act provides that there must be "reasonable suspicion" that the intention of carrying the weapon is to break the law.

It is this subjective enquiry that will, no doubt, leave the door open for abuse. The police will have to exercise their discretion as to whether there is a reasonable suspicion that the weapon in question is being carried for an unlawful purpose which must be weighed up against the rights of the carrier of the weapon. Application of the Act will have to be carefully administered in order to ensure that there are no unlawful arrests.

While the effect of the Act is still to be tested by the courts, there seems to be far reaching sentiment that the carrying of (legal) weapons for the purposes of self defence does not fall within the ambit of the application of the Act. Hence, the carrying of pepper spray (by way of example) does not meet the criteria within the Act.

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