

PUBLIC INTELLECTUALISM AND SOCIOPOLITICAL INQUIRY

THROUGH METAPHOR AND MUSING

V.3

Kenneth K. Mwenda

PhD, LLD, DSc(Econ)



Kenneth K. Mwenda

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Kelvin Arthur Dalrymple

Senior Advisor to the Executive Director for Canada, Ireland and the Caribbean International Monetary Fund, Washington DC, USA.



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VOLUME 3



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VOLUME 3

Kenneth K. Mwenda
PhD, LL.D, DSc(Econ)



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Kenneth K. Mwenda

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“Certainly one of the top twenty-five (25) intellectuals from Africa to grace the world stage in the last two decades, Professor Mwenda’s richness of thought is displayed in the depth and breadth of his trend-setting intellectual contributions (ICs). His ICs have largely, but not exclusively, been in the field of contemporary and comparative Law and Africa’s development. The current book, however, is a refreshing reminder that intellectual heavyweights do, in fact, have a lighter side!”

- **Prof. Gerry Nkombo Muuka, PhD**
Associate Dean and Coordinator of
Graduate Programs

Arthur J. Bauernfeind College of Business
Murray State University, Kentucky, USA.

“Professor Mwenda is back again with yet another brilliant piece of work. In this book, he provides thought provoking explorations of socio-political themes using axioms, adages and proverbs. The result is an educational and entertaining piece of work that will appeal to readers from all walks of life – the academics, intellectually inclined as well as the casual reader. This book has something for everyone. It resonates well in all cultural settings and quite frankly it is hard to put the book down once one starts reading it. It is certainly a must read.”

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Director, Statistics Department
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“Prof. Kenneth Kaoma Mwenda is a renowned thought leader on legal and financial matters. His extensive writings have so far targeted the ‘learned minds’. In his latest book, ‘Public Intellectualism and Socio-political Inquiry through Metaphor and Musing’, he is in an amazing innovation addressing both the initiated as well as the uninitiated. It is an approach all intellectuals should attempt to do if they are to remain relevant to their societies.”

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- **Chibamba Kanyama**

Former Director-General, Zambia National
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Currently with the Bretton Woods Institutions
Washington DC, USA.

“An eclectic and very thought-provoking collection of original perspectives. This book truly reflects Professor Mwenda’s global character and intellectual quality. Well worth the read.”

- **Kelvin Arthur Dalrymple**
Senior Advisor to the Executive Director
for Canada, Ireland and the Caribbean

International Monetary Fund (IMF)
Washington DC, USA.

DEDICATION

St Jude;

Pray for Us.



ACKNOWLEDGEMENT

To my many students and former students worldwide at the various international universities where I have taught, thank you for being promising leaders for the next generation. That a number of my former law students have gone on to become notable Supreme Court judges, Constitutional Court judges, Court of Appeal judges and High Court judges, including an eminent Chief Justice, while others continue to serve as law professors, diplomats and ambassadors, as well as judicial clerks and prominent Cabinet Ministers, is only the beginning of the story. For, there are also those that have held or continue to hold senior positions at the World Bank, the African Development Bank, the Common Market for Eastern and Southern Africa, and many other international organizations. I am truly humbled and grateful to God, Jehovah, Almighty, for all these blessings.

Special thanks also go out to all friends and colleagues (as well as my family members, including my wife and son) who provided comments on the various sayings, musings and metaphors in this book. Their tireless contributions helped to sharpen my views on a number of issues. My other thanks go out to **Africa in Canada Press** for the timely and

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FOREWORD

While Richard Posner writes that the craft of public intellectualism is declining, Prof. Kenneth K. Mwenda's is on the rise. In March 2001, Zambia's leading private newspaper, *The Post*, headlined a commendation letter written by a prominent Zambian Journalist, Chibamba Kanyama, on a then budding young African legal scholar, Kenneth Mwenda. The author of that commendation letter, Chibamba Kanyama, now serving as Advisor in the Communications Department of the International Monetary Fund (IMF) in Washington DC, was at the time based at the University of Reading in the UK. In his letter, Kanyama described Kenneth Mwenda's unparalleled academic record as "a rare phenomenon".

Prof Kenneth Mwenda is a leading intellectual luminary who, without doubt, ranks amongst the top ten (10) best legal minds that Africa has produced in the twenty-first century. He has taught at some of the best universities in the world, including the University of Warwick in the United Kingdom. He holds a PhD in Law from the said University of Warwick. And who would have imagined that the rare phenomenon referred to by Kanyama in his published letter of 2001 would become rarer with the

conferring of a rare Higher Doctorate degree in law (LLD) on Kenneth Mwenda by Rhodes University of South Africa in 2008! Rhodes University, one of the leading universities in Africa, had never in its entire rich history awarded such a distinguished academic award until Kenneth Mwenda received the same. All in all, there are not more than eight (8) to ten (10) eminent African legal scholars with an earned Higher Doctorate degree in Law.

A Rhodes Scholar, Mwenda graduated from, among other institutions, the prestigious Oxford University. In 1998, he turned down a fully funded fellowship to join Yale University Law School, the best law school in the USA, for another competitive offer from the World Bank. It should be noted that the Higher Doctorate degree conferred on Mwenda by Rhodes University in 2008 is a distinguished and rarely awarded senior doctorate. It was awarded after a thorough examination and in recognition of Mwenda's prodigious output of high quality scholarly publications. The story gets even better. Mwenda achieved the rarest academic status in 2014 when he was conferred upon the second Higher Doctorate degree of Doctor of Science in Economics (DSc(Econ)) by a leading British university, the University of Hull. This honour was in recognition of his continued output of highest quality scholarly works, covering both books and peer reviewed articles in leading journals. Hitherto, Mwenda has

produced about twenty-five (25) leading books and about ninety (90) journal articles on various subjects, including financial institutions, financial regulation, banking, corruption, corporate governance, diplomatic immunities, public and private international law, money laundering, economic development and related and varied other fields.

Prof. Mwenda's rather as yet not known unique quality and a class by himself is that of public intellectualism whereby he observes everyday life which he then distills into pithy and poignant published metaphors and musings. It is dizzyingly pleasing to read a collection of these metaphors in his latest book which you are holding in your hands. When these self-created "thoughts" were initially sent to me, I thought Mwenda was collecting and circulating other people's sayings until I noted that he had actually thought them and collected them himself. In all cultures, similar sayings are a collection of numerous people's thoughts and ideas and they would have been accumulating over very long periods of time. They are a common heritage of humankind. But in this rare case, Mwenda has sculptured them in his mind all by himself. When you start reading *Public Intellectualism and Socio-Political Inquiry through Metaphor and Musing*, you will be convinced that Mwenda is one of the greatest public intellectuals of our era, in the company of

Henry Louis Gates Jr.; Cornel West; Ali Mazrui; Wole Soyinka and all those studied in Justice Richard Posner's book entitled, *Public Intellectuals*. Mwenda's unique intellectualism is also evident in his other publication entitled, *Anthology in Law and the Social Sciences* in which his commentaries on all conceivable subjects is in full display and a marvel to read. Welcome to a most pleasing roller-coaster ride I have the pleasure of recommending.

Munyonzwe Hamalengwa, PhD
Attorney at Law,

Toronto, Ontario, Canada.
Thursday, April 2, 2015.

PREFACE

While this book does not purport or pretend to have all the answers to the many socio-political challenges that we face in life, it certainly does raise some thought-provoking questions for us to think through. I hasten to add, however, that the book is not a work of fiction. Rather, it is an example of public intellectualism in the Social Sciences. The book distills complex ideas into easily discernible ideas. Such is a cardinal objective of the book – to provoke some critical thinking on topical themes pertaining to socio-political inquiry. This objective is pursued through the use of metaphors and musings. In many cultures, especially those that place much emphasis on oral tradition, knowledge is often handed down to the younger generation through various adages, sayings, metaphors, musings and stories told by the elders to the younger folks around the fire-place. This book attempts to draw from such a tradition, lighting the fire-place and then distilling some untapped wisdom for posterity and the readership.

The writing of the book was prompted by the increasing and growing demand from friends and colleagues for a book that would bring together a collection of some of my notable sayings that I had

shared with them over the years on social media or via electronic mail. So, all the sayings contained in this book are not borrowed material, but originally my own. For the reader who is interested in non-original material lifted from other people, you are reading a wrong book. This book is not meant for you. However, for the reader who is interested in reading novel and refreshingly original ideas, this book is meant for you. And you will find a companion in the book. As noted above, the ideas presented in this book are my own.

As a scholar, I have been influenced at various levels of consciousness by the works of many writers and philosophers as well as by many traditions and cultures. And the ideas presented in this book come from a broad spectrum of meta-paradigmatic thoughts that cut across various disciplines in the social sciences. That said, the sound and heartbeat of my work remains my own. Indeed, creative problem-solving requires us to think outside the box. We cannot succeed by using the same models and approaches that led to the very problems that we are trying to solve. We must evolve and adapt. Every system must adapt. It should not be static because change is, ultimately, inevitable. What matters is how we manage that change.

While the book presents an eclectic taste of musings and metaphors, such that many a reader might find it hard to put the book down once they start reading,

a deliberate effort is made to set the discussion in its proper socio-political and socio-economic contexts. Much of the analyses are made through the prism of the social sciences. In this book, I endeavor to stand back from my notable scholarly work of authoring for an academic and intellectual audience. What I propose to do instead is to seek dialogue with a broader section of society, ranging from the most intellectually sophisticated to the least enlightened person. Very often, as scholars, our ideas tend to be detached from the real world, particularly when we use technical language and jargon or other forms of communication that only our fellow intellectuals can understand or decipher. Take, for example, the case of a PhD economist who is in the habit of using complex mathematical formula to write or report on contemporary economic issues in the media. How useful is such writing and information to the common man on the ground that has little interest in learning about complex mathematical equations?

A notable role of public intellectualism is to stand back from the intimidating language of a technocrat so as to avoid some kind of tunnel-vision where only you, the author, and your fellow technocrats are the ones who can understand what you are talking about. And this is exactly what this book endeavors to do. People from different walks of life will find this book an easy read, whether they are travelling on a train or a long flight. The book will give them a

valuable companion. And even though some of the readers may not be in full agreement with some of the ideas that the author advances, many a readers' thoughts are likely to be provoked to some greater degree. That, really, is what matters most. Indeed, it is that stimulation of debate that lies at the centre of this book.

A public intellectual often transcends the boundaries of academic pedagogy, while avoiding the chasm that divides scientific inquiry and intellectualism from the typical practitioner role of unscientific advocacy. A public intellectual often remains focused on translating complex theoretical and conceptual ideas into easily discernible scientific and objective analyses that even wananchi (i.e. the public citizens) can understand. In doing so, the public intellectual should try to communicate and speak the language of the common man, without stifling debate or intimidating the audience with all manner of intellectual sophistry. To that end, the use of metaphors, adages, and illustrations becomes handy in breaking down certain ideas that would ordinarily be seen as too complex for the common man to understand. This book takes such an approach, breaking down complex ideas into easily discernible ideas.

This is not a book simply about Africa. Neither is it simply about America or Europe. Rather, the book is about the human condition everywhere in the world.

We live in a global vil-lage. And the author has lived, studied and worked on three different continents, namely, North America, Europe and Africa. So, every reader will be able to relate to one or more of the sayings, metaphors and musings presented in this book.

Special thanks go to all friends and col-leagues (as well as my family members, including my wife and son) who provided comments on the various sayings, musings and metaphors. Their tireless contributions helped to sharpen my views on a number of issues. Also, my thanks go out to Africa in Canada Press for the timely and efficient publication of the book. And I would be failing in my duties as the author if I did not record my indebtedness to my good brother, Dr. Munyonzwe Hamalengwa, a leading human rights advocate and an outstanding barrister in Canada, for his inspiring Foreword for the book.

The analyses, arguments, interpretations and conclusions expressed in this book are entirely those of the author. They do not represent the views of any institution, person or body to which the author is affiliated.

Kenneth K. Mwenda

PhD, LL.D, DSc(Econ).

Washington DC, USA.

Thursday, April 2, 2015.

1



METAPHORS AND MUSINGS



“Leadership thrusts upon you responsibility, and not entitlement. It bestows on you a sense of moral responsibility and duty towards not only your people but also to the ideals of your forefathers and the broader international community that fellowships in values and principles similar to yours.”



“The good thing is that God does not post our sins on social media for all to see. He is a fair and protective God no matter how much we offend Him. He is not vindictive like some people.”

“When your friend is dancing with a lovely lady,
do not turn off the music simply because you
cannot dance with her.”



“Do not be ashamed to say that you don’t know.
We all started from somewhere. Rather, you
must be ashamed for saying that you know
when, in fact, you do not know. The latter will
embarrass you whereas the former will gain you
support and help.”



“When an African man runs out of ideas during
an argument, say, with younger colleagues, he
invokes age. It’s the last bastion on the
frontier.”



“Before a child learns how to walk, he or she
often hesitates, taking only a few steps and then
holding on to safety or sitting down safely to
crawl to the mother. But soon after the child
begins to walk, he or she wants to run
immediately upon realizing that it can be done.
And so it is with knowledge and learning.

The more you learn, the more you want to keep learning. The more you know, the more you want to know. Do not let that first attempt at walking discourage you.”



“If you were to ask me the difference between an expert and a specialist, I would opine most candidly that an expert is a specialist of exceptional standing in a profession or field of knowledge. By contrast, a specialist *per se* is one who by study, work experience or both specializes in a particular field of practice or knowledge. He need not be an expert.

Whilst an expert is always a specialist, the latter is not always an expert. Indeed, there are many specialists with genuine PhD degrees who are not experts, but merely specialists. For one to graduate from being a specialist to an expert, there should be evidence of exceptionalism through continued professional development as seen through, say, a sustained body of peer-reviewed published scholarly work or the advancement of policy work at the highest international or regional levels.”

“Not every lawyer understands the constitution well enough to opine as a pundit. And not every economist understands issues of monetary policy well enough to pontificate on public television. Even with advanced forms of modern road or skyscraper constructions, not every civil engineer or architect knows much about the intricacies of that art. We must all specialize if we are to hold out in public as knowledgeable enough for others to listen to us.

There are no shortcuts.

It is also a truism that not every medical doctor knows well enough on pediatrics or neurosurgery to provide an informed analysis. We must all specialize well enough, though retaining an attendant knowledge of the general aspects of the profession. Otherwise, the public will not know the difference between a charlatan and an expert, and the public will be misled. Indeed, there are many charlatans out there than there are experts or specialists.”



“The danger with saying things that you hardly understand well enough, or holding out as an economist or a constitutional lawyer when you are not, is that you place yourself in harms-way.

You only have yourself to blame for the blinded ambition.”

2



CASE STUDIES



AFRICAN MOTHER WITH AN ACCENT DETAINED AT AIRPORT ON SUSPICION OF ATTEMPTING TO SMUGGLE HER OWN DAUGHTER

The African woman's daughter, a little cute seven years old, spoke with a soft voice in a pleasantly warm and fine American accent. Her English was simply lovely. By contrast, the girl's mother spoke with a very thick African accent. And that immediately sent an alert, alarm bells to the immigration authorities at the airport, suspecting that the woman was trying to smuggle an American child out of the USA. She was immediately detained,

and interrogations started. But she kept crying out loud, and causing drama at the airport, in her native Bemba accent from Zambia, “*Mutuleee...!*” (English translation: “God help me!”)

The immigration authorities would have none of that. At that point, I was standing next to the check-in counter at the airport when I heard what I thought was a familiar traditional Zambian call for help, namely, “*mutuleee.*” So, I walked over, and excused myself. The officers were very understanding. They allowed me to talk to the lady. So, I asked the lady, “*Ni shani, mayo?*” (English translation: “Is everything OK, ma’am?”)

When she noticed that someone who could speak her native language in a foreign country had walked over to help, she escalated the drama to attract my attention as she wailed more so that I could expedite my efforts at helping her. She lamented audibly, as she sobbed, “*Ba bubi sana ba shetani aba! Nemwine nkofwaya ukubwelelamo kumushi. Nomba ba mpoka umwana ati nine smuggler kwati ndi pa Mokambo!*” (English translation: “These people are so bad. I am just trying to go back home, but they say that since my accent is different from that of my daughter then she may not be my child, and that I may be trying to steal someone else’s child from America.”)

I turned and looked at the little young girl, and asked her in Bemba, “*Ni banoko, aba?*” (English

★ ABOUT THE AUTHOR ★



Prof. Kenneth K. Mwenda
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A distinguished thought leader and public intellectual, **Prof. Kenneth K. Mwenda** read law at Oxford as a Rhodes Scholar. He has also taught

law at top universities in the United States of America (US), the United Kingdom (UK) and South Africa. A Fellow of the British Royal Society of Arts (FRSA), Prof Mwenda is a recipient of several international academic awards, including a competitive fellowship from Yale University Law School in the US. Most recently, he gave the 2015 Distinguished Lecture at the University of Nairobi Law School in Kenya, and was appointed as Extraordinary Professor of Law in the Faculty of Law at the University of Pretoria, South Africa. He has also held previously the position of Extraordinary Professor of Law at the Centre for Human Rights, the University of Pretoria. Based in Washington DC, Prof. Mwenda is the Program Manager and Executive Head of the World Bank's Voice Secondment Program, a major capacity-building initiative of the Board of Executive Directors of the World Bank.

Prof. Mwenda has had a stellar academic career as well as an outstanding professional life as a leading international development practitioner, travelling to more than thirty countries worldwide. His is a fine blend of theory and practice, with many years of international experience in both academia and international development. Prof Mwenda has maintained a parallel academic and professional life, publishing academic books and other scholarly work in top journals and law reviews as well as holding various senior academic appointments at leading universities internationally, while serving with the World Bank. A member of the editorial boards of several scholarly journals, including the *Journal of*

International Banking Regulation and the *Africa Finance Journal*, he is also an occasional editor of the *Journal of African Business*, and was until recently the joint Editor-in-Chief of the World Bank's *Law, Justice and Development Book Series*.

With sustained thought leadership in academia, in addition to valuable experience in international development practice, Prof Mwenda is a widely recognized authority in his field of expertise as well as a highly sought-after speaker that has been interviewed and quoted by numerous print and broadcast media, including the *New York Times* (US), the *Voice of America* (VOA, US), *CCTV* (US), the *Times* (UK), the *British Broadcasting Corporation* (BBC, UK), and *Sky TV* (UK). In 2008, after a rigorous and thorough examination of Prof Mwenda's selected scholarly books and peer-refereed journal articles by a distinguished panel of top international legal scholars, Prof Mwenda was admitted by Rhodes University, a leading university in South Africa, to the rarely awarded Higher Doctorate degree of Doctor of Laws (LLD). It was the first time ever in the rich academic history of that university that such an award was being conferred in the Faculty of Law! Six years later, in 2014, after another rigorous and thorough examination of Prof Mwenda's other substantial portfolio of scholarly books and peer-refereed journal articles by a distinguished panel of eminent international scholars, Prof Mwenda was admitted by the University of Hull, a leading British university, to the rarely awarded Higher Doctorate degree of Doctor of Science in Economics (DSc(Econ)). It is

important to stress that in the entire English speaking world, Prof. Mwenda is arguably the only senior legal scholar to have earned two Higher Doctorate degrees in two different disciplines! Higher Doctorates, it should be emphasized, are never the immediate step after a PhD. Rather, they are reserved for those internationally recognized senior scholars that have made exceedingly significant contributions to a science or body of knowledge through exceptionally insightful and distinctive scholarly publications, earning them recognition as international authorities in the field of research that forms the basis of the degree.

Further, Prof. Mwenda holds a PhD in Law from a leading British university, the University of Warwick. At the World Bank, he has served additionally as Senior Legal Counsel in the Legal Vice-Presidency as well as Senior Legal Counsel in the World Bank's Integrity Vice-Presidency. All in all, Prof. Mwenda has written more than twenty-five (25) scholarly books and over ninety (90) articles in leading law reviews and academic journals. Prior to joining the World Bank, he served as an Assistant Professor of Law at the Faculty of Law, the University of Warwick, in the UK. Prof Mwenda has also taught as Adjunct Professor of Law at American University Washington College of Law (WCL) in Washington DC. His scholarly work is cited frequently as authority not only in academia, but also by the courts of law, most recently by the Supreme Court for the Republic of Zambia in the case of *Ventriglia and Ventriglia v. Eastern and Southern Africa Trade and Development Bank and*

Robert Simeza SCZ NO. 13 OF 2010 (Appeal No. 11/2009). His other scholarly work has been seminal in some of the research work and country assessments carried out by the International Monetary Fund (IMF), the World Bank, the Asian Development Bank (ADB) and the Inter-American Development Bank (IADB).

In addition, Prof. Mwenda holds, *inter alia*, the prestigious BCL degree from the University of Oxford (UK) and an MBA degree from the University of Hull (UK), with subsequent executive leadership training from Cornell and Georgetown Universities, respectively. His first professional law degree, a Bachelor of Laws (LLB), is from the University of Zambia where he graduated in 1990 in the top one percent (1%) of his class. He was admitted to the Bar in Zambia in 1991, as the best Bar admission student. Prof. Mwenda is a US Certified Anti-Money Laundering Specialist (CAMS) as well as a Fellow of the British International Compliance Association (FICA). He has served as Visiting Full Professor of Law at a number of leading universities in Europe and South Africa, including the University of Miskolc in Hungary, the University of Cape Town (UCT), the University of Western Cape (UWC) and the University of Zambia. He has also given many lead lectures and presentations at major US universities, including George Washington University, the University of Maryland, Duke University, Temple University, and the University of South Florida.

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