

THE POWER OF VOICE | MEGAN DAVIS

PODCAST TRANSCRIPT

UNSW Centre for Ideas: Welcome to 10 Minute Genius, an eight-part series created by the UNSW Centre for Ideas to provide pause and create a space to engage with new ideas from UNSW Sydney's thinkers, dreamers and envelope pushers, as they help to make sense of the relentless information vortex in which we live. In 2017, on the lands of Anangu, Cobble Cobble woman, Megan Davis, stepped out from the shadow of Uluru, and delivered the Uluru Statement from the Heart, for the very first time, demonstrating the power of First Nations voices. Before this momentous day, Megan Davis had embarked upon a deliberative process bringing together the 13 regional dialogues around Australia, asking First Nations people for the first time, what does recognition mean to you? In just 10 minutes, Professor Megan Davis will take you through time, unsettle you, and open your eyes to how we can create a better future for all Australians through constitutional reform.

Megan Davis: My name is Professor Megan Davis. I'm Pro Vice-Chancellor Indigenous at the University of New South Wales. I'm also a Professor of Law and the Balnaves Chair in Constitutional Law at the Faculty of Law. I'm a Cobble Cobble woman from the Barrungam nation which is in southwest Queensland. So as an Aboriginal scholar, I have never been someone that is particularly fluent in theory. So I'm not a theoretical scholar, I've always been a very practical scholar, meaning I always roll my sleeves up and get involved in law reform processes. So I feel like my job as a scholar is to take what I've learned and what I'm researching and apply it to the here and now.

The Uluru Statement from the Heart is a First Nations roadmap to peace in this country. For a very long time, Aboriginal and Torres Strait Islander people have been seeking some form of recognition in Australia's constitution. They've been seeking this recognition, because when we look around the world at other comparative indigenous populations, recognition in the legal structures and framework of the state has a flow on effect that benefits not just Aboriginal peoples, but the broader population as well. Over the past decade or so we've

seen Closing the Gap fail. So the indicators in terms of life mortality, early education, employment, we've seen the gap widen in terms of disadvantage between Indigenous and non-Indigenous Australia. And part of that is because of the failure of our political elite, to really grapple with what is the problem that is at the heart of that disadvantage in communities.

So growing up, we were acutely aware, of course, that we were Aboriginal. My father was Aboriginal, my mother is non-Indigenous. But we always spoke about our family that were still living on the reserve, in Cherbourg, which is three hours north of Brisbane. They were moved into reserves and missions to ostensibly protect them, which is why they're called protection laws. But in fact, they were really brutal regimes of oppression and subjugation. Every aspect of Aboriginal lives were dictated by these laws, who you could marry, you know, who you could talk to, whether you could pass down property to family, being able to speak language. And it wasn't really I suppose, until we went to a NAIDOC day at Musgrave Park in Brisbane, where I grew up, and the Queensland archives were asking Aboriginal people to sign up to get their files from the protection period. And so that's when we first received the huge bundle of files and papers and letters on my grandfather, who grew up on Cherbourg. So I've often thought about that, and that moment where, you know, your entire family is crying because the letters are so, you know, humiliating and demeaning, and undermine the dignity of who, my people, were human beings.

My family history in terms of that protection era absolutely influenced my decision to study law. I wanted to understand better how the legal system had framed and influenced the way in which, you know, my family had lived and what they could do and where they could be in Queensland, and how that had an impact upon my life and how history manifests in decisions that families make over the generations. And so part of the work that we've been doing with the Uluru Statement from the Heart is using that same law, or the power of law or the force of law, to try and provide some structural equality for Aboriginal and Torres Strait Islander peoples.

The process that led to the Uluru Statement from the Heart, was quite complex. I worked on it at UNSW. For many, many years. I'd researched a lot of constitutions around the world that

had constitutional recognition. And I looked at the processes that had led to that constitutional recognition. And we designed what we called the First Nations Dialogues. So the First Nation Dialogues were the constitutional meetings where a group of Aboriginal and Torres Strait Islander peoples were selected by local land councils. We capped the numbers at about 100 to ensure that the process was robust, and that everybody went through the same process together and we had enough staff and enough resources to manage those numbers. It also had a historic consensus, meaning everybody endorsed the outcome of all of the dialogues in certain regions, and that was to ask the Australian Government for a referendum on a constitutionally protected voice.

The Voice to Parliament is the reform that the Uluru Statement from the Heart says is the most meaningful form of recognition for First Nations peoples. Many liberal democracies around the world create mechanisms such as the voice to Parliament to enhance Indigenous people's participation in the democratic life of the state, Aboriginal and Torres Strait Islander people were excluded from the drafting of the Australian Constitution. In fact, the Constitution when it came into effect, in 1901, excluded them expressly, they weren't even counted in the census. It wasn't until 1967 that that was fixed. The 1967 referendum was the highest yes vote in Australian history. The work of the Uluru Statement from the Heart is about moving Aboriginal and Torres Strait Islander people within the constitutional framework, from a position of neutral, which is what happened in 1967, to something that is much more empowering. And that is what constitutional recognition is about.

There are three major reasons why the constitutionally enshrined Voice to Parliament referendum is so urgent. I mean, the first thing really is that the Constitution was passed in 1901. And it's now 2021, we still have no form of recognition. And this is unusual in the world, when you take a look at Western liberal democracies with significant Indigenous populations. The second reason why a constitutionally enshrined Voice is so urgent is that as the decades go on, we see that the Commonwealth Parliament and the Commonwealth bureaucracy, and the state bureaucracies are incapable of closing the gap in terms of disadvantage, that's really apparent to all Australians. And one of the reasons that people advocate for a Voice is that it's more likely to lead to quality laws and policies that can actually change things on the ground. The third, really, I think, most serious reason why the

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Voice is urgent, a lot of our old people who lived through the tail end of the frontier wars, through the protection era, through the assimilation and absorption era, a lot of our old people are dying. And what they said in the dialogues was that they want some peace for their country. And that's a really important point, I think, I think now is the time, because if we don't run at this as a nation, now, we lose this opportunity forever.

I was one of the first people, I was the first person to read the Uluru Statement from the Heart. I read it in the conference room, and I read it out at Mutitjulu at the foot of the rock, at Uluru. It was a huge, huge honour to read it. It was a very serious and solemn moment. And at the end of reading it out, people just stood up and clapped and cried. So it's one thing for our people and Aboriginal Torres Strait Islander people to go through a complex legal process and then come out the other end and talk to government about what that might look like. But it's another thing to involve the Australian people.

So we made a decision at the rock, that politicians aren't going to help here. So we needed to explain to Australians, this is why we say we need this referendum and this amendment to the Constitution. And so that's what was so powerful about reading it out. It was this incredible logic invitation to the Australian people, and every line and every sentence is drawn from the dialogues. It's drawn from the words and wisdom of our old people who participated in those dialogues. Up until the Uluru Statement, any demands or claims on rights by Aboriginal people have been handed on a bark petition or a painting to a prime minister. But this time we decided, no. This time we decided the only way we will get change in this country is to invite the Australian people to walk with us. And that's because the Australian Constitution can only be changed by the Australian people. But the Uluru Statement from the Heart is saying to the Australian people, meet with us at the rock. We have some grievances to share with you and to work through. And we want you to walk with us, like we did in 1967, in a movement of the Australian people for a better future. Uluru is one of the most significant law reform agendas I've been involved in because if we do get a referendum, it's going to dramatically change our people's lives on the ground.

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