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Laura Smith-Khan

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Language, culture and professional communication in migration law education

Laura Smith-Khan [a,b]

[a]School of Law, University of New England, Armidale, Australia; [b]Centre for the Social Study of Migration and Refugees (CESSMIR), Ghent University, Ghent, Belgium

ABSTRACT

Undertaking further education can be attractive for those seeking to improve their professional mobility, including post-migration. This article shares findings from a digital ethnography of a diverse group of graduate students hoping to begin a new career practicing migration law. Drawing on longitudinal qualitative interviews, virtual classroom observations and de-briefing discussions conducted during practical role-play activities, the article explores participants' evolving perceptions, experiences, and practices in developing professional communication skills and professional identity. Adopting a critical sociolinguistic approach, the investigation finds that the students make sense of their diverse language practices and resources by contextualising them within the study setting, within the broader professional and socio-political contexts, and relative to their classmates. Further, how students value particular practices and resources can change over time, influenced by these factors. Therefore, the project offers innovative findings to, and a replicable model for, research on minoritised students' communication and professional identity development in educational contexts. It also provides novel support for a shift away from conceptualisations of intercultural communication in which culture is a static attribute responsible for barriers to participation, instead emphasising the dynamic and socially situated nature of students' language, identity and learning experiences.

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1. Introduction: educating future migration practitioners

This article shares findings from a recent study exploring the experiences of a highly diverse group of graduate students, undertaking further education as a pathway to starting a new career in migration law practice. Migration practitioners play an important role in navigating complex procedures and laws, assisting their clients to put together and submit visa applications and to appeal negative decisions with the relevant immigration authorities (Jacobs, 2022; Reynolds, 2020a). Students enrolling in the required Graduate Diploma come from a variety of professional and educational backgrounds, with high

CONTACT Laura Smith-Khan laura.smith-khan@une.edu.au

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numbers reporting speaking English as a second language and having personal experience of migration (Smith-Khan, 2021a).

Employing a critical sociolinguistic approach, this article rejects conceptualisations of intercultural communication in which culture is static and cultural differences are the cause of communication difficulties. Rather, it takes language, interaction, power and social context as central considerations (Piller, 2017; Smith-Khan, 2017b). It contributes to and extends existing scholarship about migration lawyers' communication (e.g. Jacobs, 2022; Reynolds, 2020a; 2020b; Smith-Khan, 2020) by examining practitioners' experiences of developing the specialised professional communication skills needed to consult with, advise and represent their clients. To do this, the article shares findings from a digital ethnography with students enrolled in the university course required for non-lawyers to qualify to offer migration advice and assistance in Australia as Registered Migration Agents (RMAs). It examines how participants identify, evaluate, and aspire to develop particular communication skills and practices that they consider important to becoming successful RMAs. In doing so, the analysis is interested in broader questions about how minoritised students, who traditionally have limited opportunities to enter an elite field like legal practice, navigate their study, value their own skills, participate in class, and develop a sense of professional identity.

After summarising the relevant literature, RMAs' educational and professional context and the study's methodology, the article examines qualitative interviews conducted with students over the course of their study and beyond, and de-briefing discussions held during virtual classroom activities. Students identify a range of pre-existing skills to which they attribute value in their study and future professional role, and also areas for further development. They make sense of their own strengths and weaknesses vis-à-vis their ideas about how an ideal student and ideal RMA should look and sound. In turn, these beliefs influence their study strategies and future work goals. However, these perspectives are not static, and students report evolving experiences, self-evaluations, and professional goals over time. The article finishes with a critical reflection on the study's contribution to the scholarship on minoritised students, intercultural communication and legal education.

2. Language, identity and participation in legal education

Existing scholarship on the learning experiences of minoritised students in legal education indicates that those who are traditionally underrepresented in legal education and practice may face difficulties within their study, in developing a professional identity, and in transitioning into legal practice (Ballakrishnen & Silver, 2019; Sommerlad, 2007).

Some have explored how students from traditionally minoritised groups – those who have been historically excluded from, or structurally disadvantaged within, legal study and practice (e.g. based on their gender, language, race, migration status or class) – experience studying law, drawing connections between their experiences and self-perceptions during their study and their future work plans (Bhopal et al., 2020; Mertz, 2007; Sommerlad, 2007). While these studies focus mainly on gender, race and class, some examine how having English as a second language (L2) affects students' (spoken) participation in class, and how this in turn influences identity construction and self-evaluation, with students often relating and comparing themselves to native speakers.

For example, a US study including L2 English-speaking law students identified speaking in class as a challenge (Ballakrishnen & Silver, 2019). While the study targeted 'international students' enrolled in legal education, some participants self-identified as part of this group despite actually being US citizens or permanent residents, partly due to their lived experiences, identity and language factors. Regardless of their official immigration status, research participants shared self-evaluations of their language proficiency and accent and identified these as factors influencing whether they chose to speak up in class. They sometimes made sense of these choices and perceptions by explicitly measuring themselves against their 'American' classmates, who were imagined as 'ideal' law students, more suited to speaking during class activities.

Crucially, through their analysis of institutional factors and teacher practices, Ballakrishnen and Silver make a persuasive case that this expectation of an 'ideal' law student is structurally embedded, rather than existing only in the perceptions of their minoritised research participants. Therefore, they call for law schools and educators to make a 'substantive and cohesive commitment to rethinking what we valorize' and 'to managing these students' flexible – but still very vulnerable – academic citizenship' (p. 220). This echoes studies outside law, where institutions promise an international study experience replete with opportunities to interact with locals and develop English-speaking skills, while in reality, such opportunities may be much more limited (Bodis, 2023; Yates & Wahid, 2013). It also aligns with other studies, in which the classroom context, including teacher identity and divergent teacher discourse and discourse management approaches, have been found to influence the level of participation of female and non-white students (Mertz, 2007).

Beyond classroom participation, diversity also arises in studies on the training and assessment of client interviewing skills. Chow and Ng (2015) point to statistical analysis of client interview skills assessment of law graduates in both Hong Kong and the UK to suggest that language status can play a role in perceptions of communicative competence. In both settings, they note that those with English as a first language (L1) are more successful in these examinations. This is even true in the Hong Kong context where most of the individuals under examination, and many of the individuals recruited to play their clients and assess their competence, speak English as an L2. In that context, English is the language of the legal system and is used as the medium for conducting client interviewing skills assessment, even though in reality many lawyers use Cantonese, or sometimes also Mandarin, in client interviews in actual practice. The study found that in those assessments, graduates who have English as an L1 are assessed more positively, suggesting those with L1 English have a distinct advantage over those with English as an L2 (Chow & Ng, 2015, pp. 115–117). This means that even though multilingual graduates will most likely go on to use a range of languages in their spoken communication with their clients, their communicative competence is only tested in the elite and official language of the legal system, English. Therefore, assessment only provides limited insight into their full linguistic repertoire and actual practices.

The existing scholarship suggests that individuals within diverse student cohorts may have divergent experiences during their study in how they participate and are assessed, with structural and interactive factors driving these outcomes. Further, they provide valuable insights into how legal education and assessment can instil in law students (and legal practitioners) the importance of developing profession-specific forms of communication

as a prerequisite to constructing the identity of a knowledgeable legal professional. The conceptual link between developing a specific way of communicating and developing a lawyer identity is particularly evident in Mertz's (2007) study across eight US law schools. Mertz demonstrates how becoming a lawyer is ideologically linked to learning to 'think like a lawyer'. In turn, developing and performing the requisite ways of thinking is understood to hinge on students developing and adopting particular discursive practices during their legal education. Law school is thus a process of socialisation into a specific professional culture, understood fundamentally as requiring learning to think and talk like a lawyer in order to become one. Mertz persuasively argues that through their legal education, students undergo 'a quiet process in which their very selves are decentred through and in speech, as they take on the voices and perspectives pushed on them by the demands of legal discourse' (2007, p. 135).

Read together, these studies also indicate that minoritised students may face difficulties and disadvantages during their study in participating in class, and undertaking skills assessments, on an equal basis with others. This then affects how they develop and demonstrate their ability to talk like a lawyer in the way that is most institutionally valued, and therefore also how (much) they develop a sense of *becoming* a lawyer.

Many of the above studies examining minoritised students' experiences have focused on talking *about* the law in class as a core component of legal discourse development – legal analysis and argumentation skills. Another key specialised practice developed during legal education relates to interviewing and advising clients and there is a large and long-standing body of existing scholarship on client interviewing and clinical legal education (e.g. Berg, 2022; Binder et al., 2012; Chow et al., 2023), However, this scholarship has generally been more likely to conceptualise and explore diversity or intercultural communication *between* lawyers/law students (assumed to be from a dominant social group) vis-à-vis minoritised clients (e.g. Binder et al., 2012, p. 32ff) rather than diversity or marginalisation *among* students or lawyers (although cf Smith-Khan, forthcoming; and the statistical analysis in Chow & Ng, 2015). However, the literature above demonstrates the importance of considering minoritised students' experiences and perspectives contextually and holistically. Further, the connection made between language proficiency, language practices and identity in these existing studies suggests that more closely exploring the role of client interview activities in socially and linguistically minoritised students' professional development is also merited.

3. RMA education and practice

To advise on or assist with visa applications in Australia, there are two accreditation pathways: the first is admission as a lawyer. For non-lawyers, another pathway exists: becoming a Registered Migration Agent (RMA). RMAs can assist people applying for temporary or permanent visas and help with first-level appeals in the case of a negative decision. RMAs are a diverse group: available estimates suggest that over 50% of current RMAs speak English as a second language (L2) and even more have first-hand experience as migrants (Smith-Khan, 2021a).

Initial registration requirements change frequently, reflecting ongoing scrutiny by policymakers (Smith-Khan, 2021b). Currently, they involve successfully completing a Graduate Diploma in Migration Law and Practice (GDMLP), usually equivalent to one-year full-time

study, and available to students who already hold an undergraduate qualification (in any field). The GDMLP is designed with specific work-related goals in mind: it aims not only to impart technical legal knowledge but also to equip students 'with the skills and attributes that prepare them to secure employment and make a ready and useful contribution' in the profession (Grimes & Trávníčková, 2022, p. 12). After graduating from the GDMP, individuals must then pass an externally administered Independent Capstone Assessment (ICA), involving separate oral and written components, and also meet English language proficiency and good character requirements (Smith-Khan, 2021a). The ICA is designed to ensure that prospective RMAs 'demonstrate they can provide professional advice on Australian migration matters in accordance with the occupational competency standards' (OMARA, 2024) (for more explanation, see Smith-Khan & Giles, 2025).

Such a specialised standalone graduate programme is notably different from the generalist law degrees examined in the literature reviewed above. It is more accelerated than a traditional law degree and is also more targeted – towards developing the particular skills and knowledge required to practice in one specific legal area only. They also appear to attract a much more diverse cohort than traditional law degrees. To date, only one substantial study has explored RMA students, trialling and evaluating a peer-mentoring pilot programme (van Galen-Dickie, 2020). This study demonstrated the need for concerted institutional efforts to facilitate professional identity development and social supports. However, unlike the studies summarised above, it did not closely examine classroom communication or other aspects of the learning experience, rather focusing on a peer-mentoring programme outside of the study context.

Importantly, Van Galen-Dickie's study, a previous smaller study of practicing RMAs (Khan, 2019) and the current project also identify and examine a key tension: both lawyers and RMAs practice migration law, but there is a 'hierarchical and political divide' between the two groups (Van Galen-Dickie, 2020, p. 95). Lawyers have described themselves as 'the top tier' in this space, pointing to their generalist legal education and professional affiliations (Khan, 2019, p. 304). In contrast, RMAs face ongoing scrutiny and political and institutional discourses that question their 'integrity and competency', 'all while ignoring the structural limitations within which they work' (Smith-Khan, 2021b, p. 619). Therefore, while RMAs and migration lawyers do similar work, they do so against the backdrop of highly divergent discourses about their respective professions, with implications for how members of each group construct a professional identity (Khan, 2019).

These studies also identify another key link and difference between the traditional law degree and generalist legal qualification and RMAs' pathway: the GDMLP is regarded as a more accessible opportunity to enter into an area of legal practice post-migration. For some, this is identified as an accessible pathway to obtaining locally recognised legal qualifications after having successfully qualified and practiced as a lawyer in an overseas jurisdiction, and for others, it is a pathway to a new professional field. In all cases, a lack of recognition of overseas qualifications and other barriers can undermine highly qualified adult migrants' access to professional work post-migration (see Piller et al., 2024 for more on this). Undertaking a complete qualification afresh in law (or indeed in other disciplines) is often considered too long, too difficult and/or too expensive post-migration, especially when balanced against other competing commitments relevant to life stage, such as maintaining an adequate income and raising children. A short course leading to a locally recognised qualification provides an important and more accessible alternative.

Therefore, in some ways, a traditional law degree and the GDMLP could be viewed as completely distinct, yet closely interconnected – many, or at least some, of those who enrol in the GDMLP will do so because they feel, or effectively are, completely excluded from participating in traditional legal study. Further, given the stigmatised nature of RMAs as a profession, this marginalisation may follow them into their professional life.

This raises the question of whether minoritised students enrolling in the GDMLP have similar experiences in their classroom communication and professional identity development to those studying a traditional law degree, and the extent to which broader social, political and institutional discourses, such as those about the RMA profession, about migrants, and about L2 English speakers, may have an influence.

4. The project

To begin exploring these questions, this article reports on a longitudinal study with students enrolled in the GDMLP offered at the University of Technology Sydney, utilising digital ethnography.[1] This approach entails adopting the methods of traditional ethnography, including the 'collection of rich unstructured data through observations and accounts of participants in order to make detailed descriptions of what they do any why', and applying them in a digital context (Jensen et al., 2022, p. 1145), in this case to a higher education programme offered completely online.

After obtaining ethics approval, participants were recruited through announcements posted by the course director to the online learning platform, and informed consent obtained through the approved process. Individual semi-structured qualitative interviews were conducted with nine students, six of them twice (c. 23 hours total), at different points during and after completing their study. These explored students' motivations for undertaking the study and future career goals, along with examining their language profiles and evolving learning experiences. Additionally, multiple discussions were conducted with teachers.

The researcher also observed, recorded, and participated in GDMLP practical workshops conducted online via Zoom over three different study periods across 2020 and 2021. These workshops have multiple parts. They generally start with a teacher-led seminar about conducting client consultations, tailored to the particular visa types covered in students' current unit of study. For example, in the workshop for students enrolled in the first and second units, they are given general advice about how to conduct an initial client consultation. Students enrolled in a unit covering refugee visas and family visas explore considerations when working with people who may have experienced trauma. Those in a unit on visa cancellations and 'character-related' issues (e.g. when criminal conduct can affect visa status) explore how to share bad news with clients and discuss delicate topics. The seminars generally include both presentations and interactive elements, encouraging students to ask questions and offer responses or ideas.

To integrate interdisciplinary expertise, the researcher delivered live presentations to students on intercultural and interview communication relevant to their current topic of study. These were informed by both past and ongoing research with currently-practicing lawyers and RMAs (e.g. Smith-Khan, 2017a, 2020, 2021c), along with the broader scholarship on investigative interviewing (e.g. Heydon, 2019). The presentations were

recorded and integrated into interactive learning resources (H5Ps) for subsequent offerings. Feedback and input on the development of other learning materials were also provided to the teaching team, all aiming to develop students' client communication skills (for more details on the approach and its results, see Smith-Khan, forthcoming; Smith-Khan & Giles, 2025).

In the second part of the workshops, students applied their learning into practice through role-plays. They took turns playing an RMA conducting a consultation with a client, played by another student or sometimes a teacher. For these activities, teachers provide each of the pair with partial sets of facts that make up a hypothetical scenario relevant to their current topic and brief students on the relevant law. Students are then divided into small groups across different Zoom breakout rooms, each facilitated by a teacher.

Rather than the unobtrusive 'lurking' approach more common in digital ethnography in higher education research (Jensen et al., 2022), a more participatory approach was adopted (Maryns & Jacobs, 2021). In each session, students who agreed to participate in the project were assigned to one breakout room where the researcher acted as facilitator, video recorded the session and observed each pair.

Depending on timing and number of participants, debriefing discussions were also conducted, either directly after each role-play, or at the end of a group of role-plays. During these debriefings, the student playing the RMA could reflect on their performance and the researcher could share some initial observations, drawing on the briefing materials and her sociolinguistic expertise. Other students would also sometimes offer feedback, for example, by sharing their perspective as the client. Where time was insufficient, written feedback was provided to students after the session. In preparation for an assessed version of this activity that takes place during the final unit of study, some students also recorded practice sessions in their own time and submitted them to the researcher for written feedback and inclusion in the study. In total, 42 client consultation role-plays, involving 26 students (including the nine who were also interviewed) and two teachers were observed and collected (c. 14 hours total). Recordings of both the qualitative interviews and workshops were collected and transcribed, alongside research journal notes, and learning materials, for analysis (see Smith-Khan, forthcoming, for more on methodology).

The below analysis draws primarily on the research interviews and role-play debriefing discussions to examine participants' discourse about their communication skills, study experiences, and future career plans. In doing so, it adopts a critical sociolinguistic approach, which understands and analyses these classroom experiences as 'socially embedded linguistic practices, asking how the form and content of language work to accomplish (or in some cases, fail to accomplish) the [desired] social transformation' (Mertz, 2007, p. 23). Further, it assumes 'that there is a dialectical relationship between the micro-level language practices and the macro-level socio-political discourses' (Li, 2017, p. 71). In doing so, it 'makes a political commitment' (Li & Han, 2021) 'to discover links between local practices and larger social processes' (Li, 2017, p. 365). While the language of the classroom activities themselves is examined in more detail elsewhere (see e.g. Smith-Khan, forthcoming), this article is interested in students' discourses *about* their classroom experiences and what these reveal about the socialisation processes they undergo during the GDMLP, and the ideologies shaping these.

Culture is also a crucial consideration in this examination as it may be made relevant on two different levels or in two different ways. First, as a group including many who have migrated to Australia, and who intend to work with migrant clients who are, by definition, from different countries, intercultural communication may be presumed relevant based on the idea of 'cultural clashes' – the assumption that miscommunication between people from different countries of origin happens because they have different ways of seeing the world (Binder et al., 2012, p. 32ff).

However, critical sociolinguistics challenges this assumption by examining linguistic and ethnographic data to demonstrate that misunderstandings can often be attributed to *language*-related causes and/or a 'lack of shared contextual knowledge' (Piller, 2017, p. 82). Further, this literature demonstrates that rather than being attributable to one actor, such misunderstandings are produced through the interaction of two or more people, and therefore stem from the communicative practices and choices of multiple actors within a given discursive context (Trinch, 2003; Smith-Khan, 2023a). This is a particularly important observation in this context, where many of the student cohort, and many practicing RMAs, face discourses in which their language practices and proficiency as (often) racialised second-language speakers of English face close scrutiny and frequent criticism both within educational and professional contexts (Piller & Bodis, 2024; Smith-Khan, 2021a, 2021b, 2023b).

Second, building on Mertz's (2007) observations, migration law and other areas of legal practice are also sites of intercultural communication as between legal practitioners and their clients, as the former are 'experts trained in the terminology, communicative practices and institutional workings of the law and these membership statuses are salient within, and impact on, interaction with a lay client outside this group' (Reynolds, 2020b, p. 93).

Therefore, critical sociolinguistics invites us to examine who makes factors like language and culture relevant, to whom, in which context, and for which purposes (Piller, 2017). The analysis that follows attempts to examine just this, with reference to GDMLP students' discourses about their study, practices and professional goals. In doing so, it explores the various ways in which students demonstrate awareness, and sometimes adoption, of the dominant discourses that exist within Australian higher education, the RMA profession, and broader society. However, it also demonstrates how they mobilise counter-discourses and in doing so, make sense of their experiences, find value in their practices and repertoires, and make a place for themselves in the classroom, the profession and society. The analysis below begins by exploring students' discourse about the skills they bring to their study and how these relate to their future work plans. It then proceeds to explore their discourses about their experiences and strategies to develop further skills through the GDMLP to best prepare them for professional practice. Finally, drawing on and extending these examinations, it considers the interconnection between the students' evaluations of their language proficiency and practices and their identity construction as (future) RMAs.

5. Pre-existing skills

Students participating in the project commonly identified their pre-existing skills as one motivation for pursuing training and a career as an RMA. These often included

communication-related skills, either developed in their current or previous work and/or their ability to speak languages other than English (LOTEs) (see also van Galen-Dickie, 2020). This echoes reports from current migration law practitioners, who also discuss the value of these types of skills in their work (Smith-Khan, 2023b).

5.1. Skills from existing work and life experience

Both in the practical workshops and research interviews, students made connections between their own and other students' existing professional and life experience and their communicative competencies. This is perhaps unsurprising given that usually, those enrolled in the course are at least in their 30s – although often older – and therefore generally already have experience in the workforce and are pursuing a career change.

Sometimes this experience involved work with migrant clients, either assisting RMAs, or in adjacent roles, for instance, as education agents, who help connect prospective international students with Australian universities. For example, debriefing on her experience in a role-play, delivering bad news to a client, Katie[2] linked her ability to handle this difficult discussion to her existing experience: 'It's really hard, I've been doing it for a while because I'm an education consultant, I need to tell the students, sorry you don't have any options. You have to go back' [Katie role-play debriefing, workshop 3, 2021].

Similarly, discussing her empathy during her role-play with an emotional client, Angela attributed this to her work experience: 'I'm used to it, because I've worked a lot with refugees, so that's how I know' [Angela, role-play debriefing, workshop 3, 2021].

Others identified skills they drew on from work in other fields altogether. For example, Lisa makes a strong link with her previous work, conducting training with executives in multinational companies, to explain both her interest in the profession, and the existing strengths she can mobilise:

> So I remember when I moved to another firm, they had like packets of these stuff and I was just reading through them and I remember sort of doing **exactly what I'm doing right now** which is, you know, trying to remember them and highlighting them and then having to apply them in real life. So I think this is why this appeals to me because you have to do your reading, you've got to do your homework but then you have to actually apply it and then see how, you know, that works for people.
>
> So I find that there are a lot of parallels to what I was doing before and that is, I think, really one of the main reasons why it's appealed to me.
>
> And then you've got the human interaction, right? Because oh you have to explain to somebody what that means for them, how do you go about approaching this better [Lisa, interview 1/2, 2020, my emphasis].

In this reflection, even though her previous work is different in many ways (professional context, social dynamic, subject matter, purpose etc) she nonetheless highlights multiple interrelated core skills or activities ('exactly what I'm doing right now') that align with the concepts of thinking and talking like a lawyer (Mertz, 2007). These include the uptake and memorisation of a set of relevant concepts (or rules, in the case of migration), applying them to 'real life' facts or situations. She also identifies the parallel in terms of human interaction, and the need to critically reflect on how best to approach explaining the relevant concepts (or laws) (a key focus in Binder et al., 2012).

Some participants also referred to past experience, again in very different professional roles, to explain their capabilities in navigating linguistic diversity and its relevance for migration law practice. For example, Darius talked about a previous role as a technical interpreter in international scientific conferences, demonstrating how he would apply that experience when working with interpreters in migration law practice. He identifies the need for RMAs to closely manage interpreter-mediated discourse:

> First of all, I think I have to notify the interpreter my point of views and my expectations. Because I would like … I expect that interpreter you know, doesn't add or cut any parts, that may be unimportant for him, but may be important for me, from the original piece [Darius, interview 1/2, 2020]

He also emphasises the need to check understanding: 'I have to confirm that, whatever I am grabbing from that client, is by understanding and vice versa. Whatever I am telling to the client is understandable'. And finally, he opines that information should be shared in accessible ways, using plain language: 'free from any jargon. Free from any technical or free from any citation.'

Similarly, Nitin shares his widespread travel and work history across multiple countries to explain how he developed an appreciation for different ways of speaking English, and the need to be open to speakers from different backgrounds, who have English as an L2 or who speak a different variety.

> I developed that kind of an acceptance. I could understand they don't really mean to speak like that, but that is the way they speak. You know, while processing certain information, the brain thinks in their native language, maybe, and then while talking, while processing, the words come straight in their language, you know … without processing, adding the softening bit of it. So it comes out a bit hard. And it might sound harsh, but the intention is not that, actually.
>
> Yes, and sometimes when your proficiency is good but it's not excellent as well, if it's a second language that you don't have much habit speaking, then it's very easy to come across as blunt or impolite because you don't have those little, nice touches …
>
> No, I don't bother at all, because I've interacted with a lot of people. Asians, they have their own accent and their way of speaking as well. Yes, Bangladeshis, my neighbouring country. Pakistanis, they speak in a different way, actually. So no, it doesn't bother me at all. So I understand because I've been in that situation, so I could understand.
>
> So it's never been a problem, communication, as far as you're having the accents, you know. But the idea's conveyed, so that is what is very important. [Nitin, interview 1/2, 2020]

Further, Nitin links this empathy to his own lived experience as a skilled migrant to Australia – an experience that many RMAs identify as contributing to their choice to become an RMA and an important source of *knowledge* in their work (Van Galen-Dickie, 2020). In this case, however, a direct link is drawn between migration experience and how this has also influenced his own *language* practices, and the development of intercultural communication skills.

> I faced the same problem when I came here. People, when I talked to the native speakers here, sometimes they'd think I'm talking rude. My colleagues said that on a few occasions, and I started thinking, what was rude in that? … So I adapted it over a period of about nine years. Now I know what to speak and what not to speak. [Nitin, interview 1/2, 2020]

Indirectly, by drawing on his own negative experiences, Nitin demonstrates that this open-mindedness and emphasising the 'idea' over the 'nice touches' is an attitude or awareness that not everyone possesses. In doing so, he presents an understanding of intercultural communication where linguistic diversity and the interactional nature of communication are normalised and centred. This counters some discourses, where the minoritised participant is framed as deficient, or having problematic cultural baggage, rather than placing the placing equal responsibility on their interlocutor, and their lack of awareness about and ability to recognise and negotiate linguistic diversity. In doing so, he indicates multiple intercultural communication skills that L2 speakers may be more likely to have than (monolingual) L1 speakers. At the same time, he underlines the real constraints minoritised speakers continue to have to navigate, especially with native speakers who lack this awareness, and the implications this has for his own language practices, how they are valued in Australian society and how he has had to adapt them.

5.2. LOTE proficiency

Participants also referred to their proficiency in languages other than English (LOTEs) as being both a factor in deciding to become an RMA and a valuable skill they could use to communicate with future clients and to mediate their communication within the migration system. Those participants who had a LOTE (eight of the nine research interview participants) generally intended to use their LOTEs with at least some of their future clients. Some planned to heavily or solely focus on clients with the same first language.

Laura Do you think you would use um, Cantonese, for example, in your, in your work at all if you were a migration agent?

Lisa I think I would. Only because um, I found that in my work even though people in Hong Kong can speak English and to varying degrees of fluency, they are more comfortable if you can speak the local language, so yes [Lisa, interview 1/2, 2020].

This aligns with Chow and Ng's (2015) suggestion that this is common in legal practice in that context (p. 115). More than just being of functional communicative benefit, using LOTEs was sometimes also considered a preferred means of constructing a professional identity vis-à-vis clients.

Gemma If you have poor communication you give them the impression you're not professional. You probably have lots of knowledge in your mind but you just can't express yourself properly, or too slow, or I don't know. You've got to give them, the client the impression that oh no, you are professional. I can trust you. You can do the job for me. So I try to, the reason why I said um, um, the native English speaker is better, probably that's just one side about um, they easily use language um, uh, like more vocabulary than us. We can't use like beautiful words or whatever it is to express myself uh, precisely. So uh, that will give client the impression like, you not professional like I can't trust you.

Laura Yes, yes. I understand what you mean. Yes, that's …

Gemma So, yes. So that's why I said if I speak to Chinese, probably I'll be more confident. They, they will, will feel less, um, less suspicious. I don't know. Um, less, how will I say? Um, more trust on you than English-speaking people. [Gemma, interview 1/1, 2020]

Gemma's perspective here demonstrates the thinking-talking-being nexus Mertz (2007) suggests is conceptualised as crucial to lawyer identity development in law school: having 'lots of knowledge in your mind' is insufficient if this cannot be performed through a fluent way of speaking, leading to creating an impression that one lacks professionalism or may even attract suspicion (see also Smith-Khan, Piller & Torsh, 2024). This also aligns with longstanding socio-political discourse about the RMA profession, in which RMAs' competence and integrity are continuously questioned, with connections made between these concerns and being an L2 English speaker (see Smith-Khan, 2021a, 2021b). Some students demonstrated a keen awareness of some of these reputational threats and lack of trust, contextualising these within the broader political discourse related to migration.

> Bruce I think they see us as unnecessary, to be honest, and, if anything, just a pain to have to deal with. Because I think they are very anti-immigration, and I don't think they really care for anybody helping migrants whatsoever. And, if anything, it's probably a way to just weed people out if their [visa] applications are being rejected.
>
> So, I don't know, I just think that the Government's deliberately making it difficult for people to get into the profession. [Bruce, interview 1/2, 2020]

However, in the context of language choice, Gemma's reflections also show how beliefs regarding LOTE-use are also tied to self-evaluations of English language proficiency. Here, her apparent lack of 'beautiful words' echoes Nitin's reference to 'nice touches' but leads her to a different conclusion: her way of speaking English will not meet the expectations of native speakers, so she is safer relying on her LOTE and working with Chinese clients to present a more professional identity (see also Bhopal et al., 2020, p. 1331). Gemma's and Nitin's above reflections also echo exisiting research where international students' report being reluctant to speak the local language with native speakers to avoid inadvertently sounding 'rude' (Ramjan et al., 2023) or 'lazy' (Li & Han, 2021, p. 368).

Limits to how LOTEs are valued was a common topic, with LOTEs often discussed in relation to English, reflecting the regulatory framework governing RMAs, where a similar language hierarchy is evident (Smith-Khan, 2021a).

> Paolo The English level, I think it's very very important too.
> Laura Yeah.
> Paolo I'm Italian, as I said before, I work with a lot of Italians, and they don't speak English. And will have, a hundred percent sure that I will have a lot of consultations within Italian community. I will go to Italy to do seminars, and that will be in Italian.
> Laura Yeah.
> Paolo So in that way, if you think in that, in that way, you don't need English, okay?
> Laura Yes.
> Paolo I mean, 'I don't need to have a very high English level, because my-, 'I'm Chinese, I just talk in Mandarin, my consultation in Mandarin, my clients are in Mandarin.' Okay. And it makes sense. But then you have to do applications in English, you have to study the uh legislation in English. So if the legislation, if you don't understand properly the legislation, if you mixed up a word, all your translation in Chinese, or in Italian, or in any other language, won't be, won't be correct.
>
> Okay? So it's very, very important that they understand, the people that they want to become a migration agent, that they understand everything. [Paolo, interview 1/2, 2020]

While LOTEs are acknowledged as providing a valuable addition to RMAs' work, this is differentiated from English language proficiency, which is – unsurprisingly, given the realities of the work context – regarded as fundamental. Similar to other educational contexts, this creates a hierarchy in how different languages are valued, with the national language most highly valued, and in turn how students evaluate themselves. Further, however, while other languages are considered optional extras, they are sometimes also framed as indicators of potential English deficiency.

This is seen both in students' own discourses, such as Paolo's and Gemma's reflections, but is also equally present in institutional discourses, such as those justifying language testing rules for entry into the RMA profession, skilled migration, and higher education. In these discourses, the 'monolingual mindset' is evident, with lawmakers suggesting that multilingualism threatens English proficiency, even in countries where English is (one of) the official language(s) and where the individuals in question have extensive experience learning and using English. This then means that people from countries where multilingualism is common must prove and reprove their proficiency by having their English tested on a regular basis. Given this broader relevant socio-political context of language-based gatekeeping, it should be unsurprising when the study's participants internalise these same ideologies, especially since many participants have experienced these rules across all three contexts – skilled migration, university admission and (preparing for) RMA registration (see Li & Han, 2021; Piller & Bodis, 2024; Smith-Khan, 2023b).

6. Developing specialised skills

Perhaps unsurprisingly, given the above discussion, participants identified the need to develop and refine their communication skills in a variety of ways. As students progressed in their study, they also described how their skills developed and identified further goals. In this way, there was potential for them to gain agency and counter some of the deficiency discourses and barriers they identified early in their study.

6.1. Gaps and goals

Students identified particular areas for improvement that they viewed as crucial to becoming a successful RMA, while some of their perceived strengths and weaknesses directly influenced their specific career plans.

6.1.1. General English language-related fluency

As mentioned above, while LOTEs were valued, English proficiency was set apart as crucial. Given that at least half of prospective and current RMAs are L2 speakers, it is perhaps unsurprising that improving English language proficiency was a popular goal, even more so when understood against the socio-political contexts in which they live, work and study.

L2 English speakers compared themselves with classmates who spoke English as an L1 to make sense of their experiences and practices and identify areas for improvement. For example, Gemma discusses her experience in her first workshop role-play.

Gemma Yes, with my, one of my classmates … Uh, at the beginning it wasn't very good. Oh, he's local. He's Australian. And he's very, I feel he pick up very quickly and easily and then he has to put up with me because I have to think. And, you know, thinking probably slower than, than him and then speak slowly. Uh, yes so I find the difference and I try to, I just want to try to improve that by talking more.

…

Laura Yes, that's understandable. And you're thinking about, I guess the questions and the scenario but you're also thinking about the language.

Gemma Yes, yes, that's right. Yes, that's right, yes. So there's no other way to improve that other than talk more [Gemma, interview 1/1, 2020].

This perspective resembles findings from other research on minorities in higher education (Ballakrishnen & Silver, 2019). Similarly, Gemma, a naturalised Australian citizen who came from China as a skilled migrant, characterises her classmate as 'Australian' due to his native-speaker status, implicitly excluding herself from this category, and imagining Australia as a monolingual English-speaking country, in line with the problematic ideologies discussed above. She evaluates her own proficiency relative to his, positioning herself as slow and a burden to be 'put up with', contrasting with the apparent ease he demonstrates.

More broadly, however, it also resembles findings across a large body of sociolinguistic research in which adult migrants face barriers to skilled employment with English proficiency given as the reason for rejection, even where the individual in question can effectively communicate in the specific work context, but perhaps not with the accent of the 'standard' version of the local dominant language. Through such experiences, L2 English-speaking migrants or those who speak different varieties of the dominant language, can come to internalise language deficiency and accept this as the reason for their exclusion, diminishing their confidence in their interactions in Australia (or another country of migration) (see Li & Han, 2021; Piller et al., 2024).

While valuing English is logical in this context, this framing is particularly problematic in two ways. First, it co-occurs with a devaluing of the full scope of other communication skills participants identify, regardless of how crucial they may actually be for the professional context. This de-valuing is evident in the rules for registration as an RMA (Smith-Khan, 2021a), for admission into university (Piller & Bodis, 2024), and often, for skilled migration, as discussed above. These reflect similar policies in other contexts, for example in Hong Kong, where lawyers may regularly use Cantonese and Mandarin to communicate with their clients in practice, yet their client interview skills are only tested in English (Chow & Ng, 2015).

Second, (self-)evaluations of participants' English language proficiency in the classroom or in their work or social life are not value-neutral exercises (Piller et al., 2024). Both Gemma and Nitin provide good examples of this: both have lived and worked in Australia for extended periods in highly skilled jobs, involving regular spoken and written communication in English with colleagues and members of the public. In reality, their English proficiency is undisputably high. Yet they both still characterise their English as deficient and present this as a risk when seeking to construct a positive identity, especially in relation to an imagined native-speaking 'Australian' audience. However, these perceptions, which are then internalised by the speakers as a personal

deficiency, clearly do not stem from an actual lack of competence. They undoubtedly relate to their actual lived experiences of themselves and their English being received in this way, including through educational and professional accreditation requirements that unequally value different speakers and ways of speaking.

6.1.2. Specialised communication

Participants also identified areas for improvement more specific to the domain of migration law practice. For example, they wanted to become familiar with preparing the written texts that are central to RMAs' work (see more below in 6.2).

Unsurprisingly, client consultation skills were also a key focus, and it was the experience of conducting role-plays that made some of the specific skills and potential challenges more concrete. Bruce's reflection provides an apt example:

> Bruce Yes, like everyone, it's a lot more daunting being on the advisor side … on this side, it was a bit more difficult because I'm trying to keep everything in mind as to what I know about the client, which every time I looked at the thing, I actually knew very little.
>
> But then considering all the visa options and all of that's just dropping out of my head, so hence the reason I actually wasn't telling him anything about what he was entitled to, because I couldn't remember. That's why I kept saying, oh, I'll put it in an email to you.
>
> So, yes, so that was all very difficult as well as trying to, I suppose, not so much follow the checklist point by point, I don't think, but still covering off on those things, certainly the important stuff.
>
> …
>
> Bruce Yes, not only with that, but he mentioned about how his wife had died, and I was actually in the middle of taking a note about something and I'm like, oh, hang on, I'd better be sympathetic now [Bruce, role-play debriefing, workshop 2, 2020].

This reflection helps highlight how conducting a client interview requires multiple discursive activities, which can be challenging to achieve simultaneously, including collecting, identifying and remembering relevant facts, while also remembering, identifying and applying the relevant law, note writing, and also demonstrating 'active listening', showing empathy to build rapport (Binder et al., 2012. Ch 3). While each of these activities may be individually achievable and participants were often able to relate these individually to tasks that they undertook in other contexts, as in the examples in 5.1 above, bringing this combination of tasks together simultaneously in a simulated encounter with a client helped develop an awareness in Bruce and other students about the elevated challenge of 'keeping everything in mind' and 'covering off' on all the important things.

Therefore, despite being an Australian-born L1 English speaker, Bruce experienced similar challenges to some of those reported by L2 speakers like Gemma above. Bruce's experience demonstrates that while people like Gemma may attribute their difficulties to their L2 status, conducting a client consultation can be a demanding activity for anyone, regardless of whether they are using their L1 or L2, and that their discursive choices can lead to a variety of communicative and social outcomes, regardless of fluency (for an exploration of how these simultaneous tasks are dealt with in practice, see Smith-Khan, forthcoming).

Specific aspects of the consultations were also discussed. While some participants above were confident conducting difficult conversations, others identified this as a gap.

Sometimes this perceived gap was so insurmountable that rather than motivating improvement, it influenced students' future career plans. Similar to how Gemma intended to limit herself to working with Chinese-speaking clients, Susan, originally from Taiwan, with overseas legal qualifications, described how she planned to only work with clients applying for certain visas, to keep discussion impersonal, and avoiding asylum applications and other emotionally demanding consultations that would be too difficult for her to handle.

> If you are dealing with work visa or business visa, it will be, okay, we are working. You know, there is no personal, too much personal stories, to tell you the trauma. [Susan, interview 1/2, 2020]

Therefore, students' perspectives on their existing strengths and weaknesses shape not only their educational goals but also their future work plans – the visa categories and types of clients they feel confident they will be able to assist.

6.2. Pathways to skills development

Two key types of learning activities were evident in discussions about skills development. Students emphasised the value of engaging with examples or having good practices modelled. They also emphasised putting theory into practice as a core and crucial means of improvement.

6.2.1. Improving through models

Examples and modelling were valuable learning resources for students and took two main forms. The first was the set of learning materials the teachers had developed, which included video examples of client consultations, presented with accompanying advice, and interactive quizzes to help reinforce learning (see Smith-Khan & Giles, 2025, for more details). 'The material, it gives you the whole idea in the foundation, how to conduct the interview' [Susan, interview 1/2, 2020]. Client interview checklists also provided structure to help students keep on top of the various simultaneous requirements of the consultation process: 'I checked the checklist to make sure that I'm on the right path, otherwise I might be losing my way' [Elias, role-play debriefing, workshop 3, 2021].

Peer learning was the second valuable resource observed across multiple activities: conducting the role-plays in small groups allowed students to observe and learn from each other.

> Susan When I was listening, and looking at other people doing the interview, then reflect, oh, oh I could do that, and I can phrase this sentence, or make it ah … smooth, to, to say in this situation.
> Laura Yeah, so you found that helpful, being able to watch other people do their interview first and hear feedback and discussion about that?
> Susan Yes. I do, yeah. It really it really helps me a lot.
> …
> Although we have checklist and ah, I have seen the material online many times. However, it's still different to … when it comes to life [Susan, interview 1/2, 2020].

Beyond replicating others' lexical choices, students could also observe and learn more broadly from others' learning practices, as Nitin describes:

> I got the experience this time, because when I role-played as a client, I had an opportunity to do that, you know, as a client and as a student as well, so I could listen to their interviewing skills. Both of them, they really did well, actually. So actually, Karla was having an advantage of doing that second, and because of that I could realise that she has improvised a lot, you know, based on Andrea's thing. It's good, it's a learning; even I took some learning from them.
>
> Karla was really, really good, and she didn't miss any point as well, and she was having the notes as well, you know, so that she was not missing the flow, where to start and second and third and things. Whereas I didn't prepare notes for my interview, so next time I will definitely think about it [Nitin, interview 1/2, 2020]

Nitin identified Karla's strategies of observing and applying lessons from other students, and preparing and relying on her notes or checklist. This led to critical self-evaluation and identifying a way to improve his own preparation and practice in future workshops.

6.1.3. Improving through doing/repetition

Participants heavily emphasised the need to practice and learn through doing, both in terms of their speaking but also in terms of their development in written genres important to legal professional practice. While some students pointed to a practice file offered within the course, many emphasised the need for on-the-job learning, either through an internship or paid work. For example, Becky described how she learned to write letters of advice under time pressure while working as a migration assistant, receiving feedback from her supervisor [Becky, interview 1/1, 2022]. Paolo suggested students needed more opportunities to follow an application process from start to finish, correctly identifying which application forms and documents are required and how to 'really properly answer emails', either through practical activities or work experience [Paolo, interview 2/2, 2022].

When it came to client consultations, practice and repetition were central: 'there's no other way to improve that other than talk more' [Gemma interview 1/1, 2020]. Short of real-world experience, the role-plays were considered a valuable learning opportunity in a controlled environment.

> Yes, definitely I have to do a lot of practice interviews, especially with the prospective migrant clients. Yes, so it's different. I'm looking forward to my internship, where I'll get at least some experience of doing that in real life, you know. But the practice interviews over here is really safe, you know. So even if something goes wrong, I'm not going to lose a client or he is not going to make a complaint against me [Nitin, interview 1/2, 2020].

Reflecting this emphasis on repetition, role-play participants reported increased confidence across multiple sessions.

> Susan Um, when I say I was really nervous, that means I was shaking. I mean, I can hear my voice is like, trembling. Just, ah
> Laura Yeah,
> Susan But compared um, to last time, this time, I feel yeah, I'm much better. Although it was already three or four months ago, but, yes, you still learn something and that calmed my nerves down a bit [Susan interview 1/2, 2020].

Therefore, role-plays were seen as a valuable opportunity to develop not only competence but also confidence, alongside a more general emphasis on practical, hands-on learning. This complements existing research, which has problematised educators

framing students' confidence as a static personality trait rather than something that is dynamic and closely affected by their particular sociolinguistic learning context (Fenton-Smith & Humphreys, 2016). In the current study, individuals' confidence is closely interrelated with their self-evaluations of language proficiency, which are influenced by and evolve through both their broader social context, and through their experiences throughout the course of their study.

7. Communication skills and professional identity: interconnected and dynamic

One of the most rewarding parts of carrying out ethnographic research is the opportunity to accompany participants over an extended period and bear witness to their journeys and evolution. As Susan put it:

> I don't have the habit to write a diary, and this interview, two times of interview with you, it's a kind of, as I said, reflection. It's a good diary for me. One day, maybe one or two years later, when I become a registered migration agent, I'll look at that, oh, who I was … That's me, in 2020 and 2022, with Laura [Susan, interview 2/2, 2022].

And indeed, Susan's journey was particularly striking. Early in the project, she expressed a high level of nervousness about participating in the role-plays due to her self-consciousness speaking, especially in English, in front of others. This also initially made her reluctant to participate in the research project, and she needed clarification and reassurance via multiple emails before deciding to go ahead. In her first research interview, as mentioned above, Susan also discussed how she did not plan to work on applications involving emotionally challenging personal information, for example with asylum seekers, as she viewed these as beyond her capabilities.

Yet, connecting with her again in 2022, the latest developments in Susan's journey marked a change. She had passed the ICA oral exam on her first attempt and would soon apply for her professional registration. Not only did her positive study and examination experiences help build her confidence, but in doing so they also extended Susan's vision for what her future career could look like. While going through the final steps to register, she had applied to volunteer with an organisation assisting refugees with non-migration law matters and was expecting to work directing with refugees in this role.

This provides a compelling example of how communicative resources – and how they are valued – can change over time and context, through formative interactions, affecting self-image and professional aspirations sometimes in quite profound ways.

More generally, the above examination demonstrates how different types of language practices and resources are valued in the context of migration law (education). Students identify and attribute importance to these practices and resources by contextualising them within the study setting, within the broader setting of migration law and practice and its regulation and socio-political discourses, and relative to their classmates, and to 'ideal' L1 speakers and RMAs. Therefore, the project contributes novel evidence to existing sociolinguistic and anthropological research on intercultural communication, both within and beyond education, which similarly understands identity, language proficiency and communication to be context-dependent and fluid (e.g. Li, 2017; Li & Han, 2021; Piller, 2017).

While this article has explored students' discourse *about* their communication and learning, this exploration can be complemented by examining in more detail participants' discourse *within* their study by analysing their interactions in activities like the client consultation role-plays (see Smith-Khan, forthcoming, for one such exploration). This will provide additional insights into how language is implicated in the production and negotiation of meaning and construction of identity in this context. It could also inform the development and refinement of communication-focused training for RMAs and lawyers and other professionals who conduct investigative interviews in their work.

This study also makes a novel contribution to legal education research and broader scholarship on international and minoritised student participation and language learning. Like existing studies (e.g. Ballakrishnen & Silver, 2019), it shows how L2 students' participation is affected by self-evaluations of their language resources, and vice versa, how these self-evaluations are influenced and can change according to their experiences. It also provides new evidence in a novel setting of how these evaluations are formed, and these experiences occur, within specific interactional and institutional contexts (Mertz, 2007; Yates & Wahid, 2013).

In all, this means that institutions and educators have a crucial role to play, both in terms of providing appropriate classroom support and meaningful opportunities to participate, and acknowledging and (to the extent possible) countering broader socio-political discourses that disproportionally disadvantage some members of diverse student cohorts. This will help to better ensure that students' communicative practices and self-evaluations can evolve in positive ways, and they can develop a professional identity and can imagine a place for themselves within their profession and society where they are valued and respected.

Notes

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2. Participant names are pseudonyms.

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ORCID

Laura Smith-Khan http://orcid.org/0000-0003-3551-221X

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