

# The Suffering and Prospects of Kokang Refugees at the Border Areas Between China and Myanmar Since 2009

CUI FENG

PhD candidate, Affiliation

National University of Singapore

## Introduction

Myanmar is a country with a diverse ethnic composition and it has one of the most complex ethnic conflicts in the world. Since its independence in 1948, the conflict between the Burmese government and various ethnic armies has not stopped. For a long time, due to the restrictions of the media and archives in Myanmar and China, the research of the armed conflicts and political struggles in Kokang and the plight of refugees are rarely paid attention to by academia. The dangers of fieldwork in the region also prevent many scholars from doing research. The author visited several towns along the Yunnan border and some villages in Myanmar since 2014, and then also interviewed several Chinese NGO members of the Kokang refugee relief groups. In addition, the author obtained permission to use sources from both official media of the Kokang government and the Myanmar National Democratic Alliance (MNDAA). Centring on the Kokang region, this study examines the causes of the refugees through a militaristic and political lens since 2009 and the legal problems faced by Kokang refugees in China. This study argues that the direct conflicts between the Burmese army and the MNDAA led to the emergence of Kokang refugees; however, the political division caused by the war exacerbated the difficulties of the refugees. In addition, it is difficult for international relief organizations to enter the conflict areas, which leads to the lack of international help and attention. Although the refugees who fled to China have been temporarily resettled, they are facing the problem of the lack of refugee laws. To make this argument, the following discussion will trace the emergence of Kokang refugees since the 2009 military conflict, and then the emergence of the three political groups--the Burmese army, the new Kokang government and the MNDAA—that exacerbated the turbulent situation in Kokang. Finally, the protection of Kokang refugees in China needs legislative assistance.

## Military conflicts in Kokang and the emergence of refugees



Kokang is located in the northern part of Shan State, with the Salween River to the west, and sharing a border with China's Yunnan Province to the east. Its total land area is around 10,000 square kilometres.<sup>1</sup> So far, there has been a long-standing conflict between the Kokang people and the Burmese. The distance between Laukai (the capital of Kokang) and the Chinese border town

Nansan<sup>2</sup> is only about 6 kilometres. These Chinese border towns such as Nansan became shelters for the Kokang people during several civil wars.

Fig. 1. Map of Kokang (by the author)

When Myanmar became independent in 1948, Kokang was incorporated into the Union of Myanmar as the only Chinese ethnic entity in Myanmar.<sup>3</sup> From the 1960s to 1989, Kokang was controlled by the Communist Party of Burma which got support from the Chinese Communist Party. In 1989, Peng Jiasheng's Kokang troops announced their separation from the Communist Party of Burma and formed the Myanmar National Democratic Alliance (MNDAA). For a long time since then, Peng Jiasheng<sup>4</sup> and his MNDAA have become the actual controller of Kokang. The population of the Kokang was estimated to be 200,000 in 2010, and 90% were ethnic Chinese.<sup>5</sup>

On April 29, 2009, the Northeast Military Region of the Burmese army established the "national armed forces reorganization committee", which is responsible for the implementation

<sup>1</sup> Chengwang Lu, *Guo gan zhi [Kokang Annals]*, (Hongkong: Tianma press, 2012), 40-49.

<sup>2</sup> Nansan is located at the border between China and Myanmar, adjacent to Kokang, Myanmar. Due to the war started in 2009, Nansan and other areas adjacent to Kokang began to set up refugee camps to accommodate people in the Kokang area who escaped from the war.

<sup>3</sup> Than Mya, "The Ethnic Chinese in Myanmar and their identity," in *Ethnic Chinese as Southeast Asians*, ed. Suryadinata, Leo, Lee Kam Hing, Seen-Kong Chiew (Singapore: Institute of Southeast Asian Studies, 1997), 117-118.

<sup>4</sup> Peng Jiasheng, a Kokang political figure, is the founder of the Myanmar National Democratic Alliance Army (MNDAA). After being defeated by the Burmese government troops in 2009, he led the remaining troops to retreat into the mountains.

<sup>5</sup> Kyu Myint Myint, "Kokang: The Rise of the Chinese Minority—the New Neo-Liberal State?" in *Politics of Autonomy and Sustainability in Myanmar Change for New Hope...new life?*, ed. Tantikanangkul, Walaiporn, Ashley Pritchard (Singapore: Springer Singapore, 2016).

of the Burmese policy of "only one army in one country" to reorganize the ethnic armed forces. After that, the Burmese army began to infiltrate the Kokang strategic area, laying the groundwork for the subsequent military outbreak. On August 8, 2009, an armed confrontation was triggered between the two sides, which lasted until August 11. On August 21, 147 Burmese policemen arrived at Laukai, making Kokang tensions rise again. In this case, some generals of the MNDA announced their cooperation with the Burmese army.<sup>6</sup> At 4:00 p.m. on August 27, the Burmese army began to fire artillery at the rest of the MNDA forces, and the fighting continued until August 29. Due to the disparity in military strength, the MNDA soon lost control of Kokang and retreated to the mountains.<sup>7</sup> About the cause of the conflict, Peng Jiafu, the commander-in-chief of the MNDA, recalled that:

*The Burmese military government has put forward harsh and unacceptable conditions to reorganize our allied forces and other peace organizations...The conditions are too harsh. Not only do we dare not accept them, but also the others. Because this is the pattern formed by history. You want to change it overnight. How easy is it? We don't accept the terms of its reorganization. It has imposed political pressure, economic blockade and military repression. That's how it started.*<sup>8</sup>

In the following years, there were several military clashes between the Burmese army and the MNDA, resulting in a large number of refugees at the border areas.



**Fig. 2 & 3.** A Kokang refugee camp on the border between China and Myanmar in October 2017 (by Kokang Information Net with permission to use)

In August 2009, more than 30,000 refugees fled to China as a result of the conflict between the MNDA and the Burmese army.<sup>9</sup> After the 2009 incident, another serious conflict broke out

<sup>6</sup> Lu, *Guo gan zhi [Kokang Annals]*, 454-456.

<sup>7</sup> Ibid.

<sup>8</sup> Yu Zhou, "guogan tongmengjun siling peng jiafu zhanhuo buhui ting touxiang jiushi jiuseyisheng [Peng Jiafu, commander of Kokang allied forces: the fire of war will not stop, Surrender is a life of death]," *Phoenix Weekly* 26, no.339 (2009).

<sup>9</sup> UNOCHA, "Humanitarian Bulletin Myanmar" Issue 2,(February 2015): 1-28.

in Kokang in February 2015, causing about 13,000 people to flee to Lashio in the northern area of Shan State, and about 60,000 people to take refuge in China.<sup>10</sup> On March 6, 2017, the MNDDA forces penetrated into Laukai, the capital of Kokang, and then withdrew again under the counter offense of the Burmese military. It is estimated that more than 70,000 civilians in the Kokang region have been displaced due to several military conflicts.<sup>11</sup>

### Political struggle and the dilemma of Kokang refugees

The military conflict in 2009 led to grievous political division in Kokang. Although the MNDDA was defeated by the Burmese army and withdrew from the main areas, their armed forces still exist. The most direct consequence of the war was the emergence of two parallel governments in Kokang. One is the Kokang Autonomous Region Government<sup>12</sup> which is in cooperation with Myanmar, and the other is the former MNDDA government now called People's Government of Kokang which is stationed in some mountainous areas. The MNDDA government continued to operate in the northeastern part of Kokang called Hongyan liberated area. Kokang Autonomous Region Government which cooperates with Myanmar, occupies the capital and most of the region. The MNDDA attacking the Kokang Autonomous Region Government is a traitor to the Kokang people and called the Kokang Autonomous Region Government a puppet regime.<sup>13</sup> The new government, on the other hand, criticizes that the MNDDA is the terrorist organization of the Peng family.<sup>14</sup> At the same time, the government also continued to arrest sympathizers and supporters of the MNDDA. In June 2020, the police force and militia brigade of the Kokang autonomous region searched the mountains and arrested five villagers who had relations with the anti-government armed forces (MNDAA).<sup>15</sup> Bai Yingfa, the main leader of the new regime, said in his speech to the villagers that “the villagers who are MNDAA must take the initiative to explain clearly to us, draw a clear line and take the initiative to be lenient! If it is revealed by the prosecution, once identified, it will

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<sup>10</sup> Ibid.

<sup>11</sup> TRANSNATIONAL INSTITUTE, “Military confrontation or political dialogue: consequences of the kokang crisis for peace and democracy in myanmar” July 15, 2015, [https://www.tni.org/files/publication-downloads/military\\_confrontation\\_or\\_political\\_dialogue\\_w.pdf](https://www.tni.org/files/publication-downloads/military_confrontation_or_political_dialogue_w.pdf)

<sup>12</sup> In March 2011, the Republic of the Union of Myanmar issued Presidential Decree No.22/2011, officially establishing the Kokang Autonomous Region of Shan State of Myanmar. However, MNDAA's remaining armed forces did not recognize the new government. They occupied some mountainous areas and established the People's Government of Kokang.

<sup>13</sup> MNDDA Military Commission, “Letter to armed personnel of the Kokang traitor regime”, March 14, 2016, <http://www.kokang123.com/forum.php?mod=viewthread&tid=7898&highlight=%CE%B1%D5%FE%C8%A8>

<sup>14</sup> Military Commission of Kokang Autonomous Region, “The statement of Military Commission of Kokang Autonomous Region on November 04”, Nov 4, 2015.

<sup>15</sup> “Bai Yingfa tells the commoners how dangerous of the MNDDA,” *360doc.com*, 2020, [http://www.360doc.com/content/20/0615/07/46357283\\_918529191.shtml](http://www.360doc.com/content/20/0615/07/46357283_918529191.shtml)

be punished with strictly and never lightly.”<sup>16</sup> There is no doubt that the struggle between the two regimes has not ended until now. The ordinary people were forced to choose political sides. Many of the refugees were afraid to return home after the war because they were afraid of facing retaliation by the new government and the Burmese troops for supporting the MNDAA.<sup>17</sup>

Since the military conflict in 2009, there have been three military forces in Kokang, namely, the Burmese troops of the Central government of Myanmar, the paramilitary organizations of the Kokang Autonomous Region Government, and the MNDAA forces. The three armed forces operating in this area have caused chaos and a lack of human rights monitoring. Wang Lin (pseudonym), who is a member of China Rescue Association, worked as a volunteer for humanitarian assistance for Kokang refugees for several years. He recalled that the family of a MNDAA soldier received retaliation by the Burmese troops; the soldier's sister and mother were raped and killed by the Burmese soldiers.<sup>18</sup> A media editor in Kokang said that:

*Most of the refugees go back home after the war, but just stay for a few days. Many people in Kokang are afraid to go home, they usually just stay at home for a few days because they are afraid.*<sup>19</sup>

Wang Lin also confirmed that some of the refugees' homes and lands were occupied by Burmese people after the war, and some went on to build temporary shelters in the mountains.<sup>20</sup> Due to the lack of effective supervision, no matter which side of power violates human rights, it is hard to effectively punish the violator. An official document from the People's Government of Kokang<sup>21</sup> declared that the Burmese army had molested local women and that this had become the norm. The document shows that a rape case occurred in Dashishu village of Hongxing district on September 11. Two Burmese soldiers broke into a Kokang woman's home in the village to rape her. The family reported the incident to the local Burmese officer, but in the end, the Burmese officer only asked his subordinates to send 200 yuan (30 US dollars) and a bag of rice to the women's home as compensation.<sup>22</sup> The instability of the internal situation

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<sup>16</sup> Ibid.

<sup>17</sup> Interview with Mr Yang who was a volunteer for rescuing Kokang refugees for a few years. Interview in September 2020.

<sup>18</sup> Interview with Wang Lin, one of the members of China Rescue Association by the author on September 18, 2020.

<sup>19</sup> Personal conversation with the media editor of *Kokang Information Net [guogan zixun wang]* by the author on November 10, 2020.

<sup>20</sup> Interview with Wang.

<sup>21</sup> The People's Government of Kokang is organized by MNDAA in the northeastern area where it is called a liberated area.

<sup>22</sup> The Kokang People's government, '2019-GZZD-2: The statement of the Kokang People's government' Sep 18, 2019.

and the risk of war at any time, as well as the violations of human rights by the army, have prevented many refugees from returning home. As a result, many of the refugees eventually chose to flee to Chinese towns on the border to make a living. There are also many refugees who have nowhere to go, are scattered in the mountains or join various armed groups.

### Relief of Kokang refugees and the difficulties

During the war, many refugee camps were established at the border areas, most of which were small and located in mountainous areas. The refugees at these camps in the mountainous areas of the border do not have pure drinking water and any fixed income, and they are unable to find jobs.<sup>23</sup> Since it is difficult for international organizations to enter this border area to participate in refugee relief, civil society and governments of border towns in both China and Myanmar play a key role in refugee assistance. There are many volunteer groups organized by Chinese volunteers and the Kokang people. These volunteer groups are usually not registered with the government. They are very flexible and can easily bypass the complicated bureaucratic system and establish direct contact with refugees. However, these groups are usually faced with many challenges, such as shortage of funds and personnel. Kokang volunteers set up the Refugee Relief Association in 2015 to distribute rice to refugees. About 90% of the Refugee Relief Association contributions come from the MNDAA. However, due to the large number of refugees and heavy work, the Refugee Relief Association faced the problem of insufficient funds. The other two local refugee relief organizations are Kokang Evangelical Drug Rehabilitation Center and Kokang Autonomous Region Social Welfare Development Foundation, both of which provided relief to refugee camps during the war.<sup>24</sup>

In addition to the local non-governmental organizations in China and Myanmar, the Chinese government has also taken some measures to provide humanitarian assistance to refugees because a large number of Kokang refugees entered China during the war. The Chinese government provided assistance to the Kokang refugees who fled to China, and helped build some refugee camps close to the border. China set Exhibition Center of Nansan Industrial Park as one of the refugee camps when the war broke out in northern Myanmar in 2015. Another

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<sup>23</sup> Ann Wang, “zhengzha qiucun shui hai jide zhongmian bianjin de guogan naming [Struggling to survive: who remember the Kokang]” *Udn Global*. April 1, 2016, [https://global.udn.com/global\\_vision/story/8664/1602181](https://global.udn.com/global_vision/story/8664/1602181)

<sup>24</sup> Ziping Li, “Chinese Features of Custom Culture on the Myanmar’s Kokang Minority Race” (Master diss., National Taiwan Normal University, 2016)

well-known refugee camp on the Chinese side is the Wanding<sup>25</sup> refugee camp, which was established in 2016. In November 2016, about 1100 people were resettled at the Wanding refugee camp.<sup>26</sup> The Chinese Embassy in Myanmar issued a statement on November 20, 2016, announcing that:

*The military conflict between the Burmese government forces and some ethnic minority local armed forces in the northern part of Myanmar close to China has led to some Myanmar border people entering China in order to avoid the war. For humanitarian reasons, the local government temporarily took them in and sent the injured to Chinese hospitals for treatment.*<sup>27</sup>

Although the refugees have been helped by Chinese NGOs and officials, it is very difficult for international human rights organizations to enter the region due to the restrictions imposed by the Chinese and Burmese authorities. As the United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA) warned, “Limited information is available on the humanitarian situation and on people displaced or affected by the fighting in this area.”<sup>28</sup> The forced absence of international human rights organizations has led to the lack of supervision and international exposure of Myanmar's armed forces' behaviour, as well as the loss of international assistance for the Kokang refugees. “We do not have any information about the Kokang refugees, because we have no way to go there,” said Vivian Tan, spokesman for the United Nations High Commissioner for Refugees (UNHCR) of the Bangkok office. “We do not have any information about the Kokang refugees, because when an incident occurred, the Chinese government would provide assistance in the absence of an international organization.”<sup>29</sup>

In addition, the Kokang refugees temporarily gathered in China also face the problem of the lack of refugee laws in China. Since there is no refugee law in China, refugees cannot obtain refugee status. The identification of refugee status in international law is based on two conventions, namely, *The Convention Relating to the Status of Refugees* and *The Protocol*

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<sup>25</sup> Wanding Town is a frontier town in Yunnan Province, China. It was on the route of the Burma Road during World War II.

<sup>26</sup> “mianbei wuzhuang chongtu wandong cheng nanming anzhi dian [Armed conflict in northern Myanmar leads to Wanding becoming a refugee settlement]” *Global Times*. November 21, 2016, <https://mil.huanqiu.com/gallery/9CaKrnQhyyu>

<sup>27</sup> Yuandan Guo and Xiaoxiong Wang, “mianbei chongtu zaiqi zhongguo shou yingxiang zhongguo jundui zhenggao du jiebei [Due to the armed conflict in northern Myanmar, the Chinese army has stepped up its alert],” *Global Times*. November 21, 2016, URL: <https://mil.huanqiu.com/article/9CaKrnJYIWj>

<sup>28</sup> UNOCHA, “Humanitarian Bulletin Myanmar,” Issue 2, 1-28, February 2015.

<sup>29</sup> Wang, “zhengzha qiucun [Struggling to survive].”



*Relating to the Status of Refugees*. According to article 1 of *The Convention Relating to the Status of Refugees*, as amended by the 1967 Protocol, a refugee is defined as this:

*A person who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.*<sup>30</sup>

In fact, China signed these two treaties in 1982. However, there is no domestic law on refugees in China. Instead, the government uses immigration laws to solve the refugee issues. Therefore, all the refugees in China are still regarded as illegal immigrants according to the current domestic law. They cannot work and go to school legally, and can be deported at any time. Therefore, the Kokang people gathered in China due to the war are not recognized as refugees. Thus, China has restricted the intervention of the office of the UNHCR in refugee affairs at the Sino Myanmar border.<sup>31</sup> It is difficult for United Nations officials and international NGOs to have contact with Kokang refugees living in China's Yunnan Province.<sup>32</sup> Due to the absence of assistance from the UNHCR, the human rights of the Kokang refugees have not been guaranteed.

#### Future challenges in solving the Kokang refugee problem

Although many of the Kokang people who used to live at the refugee camps have been relocated, the root causes of the refugees have not been eliminated. Tens of thousands of new refugees will be created at any time in the foreseeable future. This is because military and political conflicts that produce refugees are likely to recur due to current circumstances. According to available sources, although the MNDAA was encircled and suppressed by the Burmese army, it is gradually expanding its forces. And it has controlled the Hongyan area in the northeast of Kokang. It can be said that it is ready for new battles at any time. On November 1, 2019, MNDAA deputy Commander-in-Chief Peng Dejun said that:

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<sup>30</sup> The Convention Relating to the Status of Refugees. URL: <https://www.unhcr.org/4ae57b489.pdf>

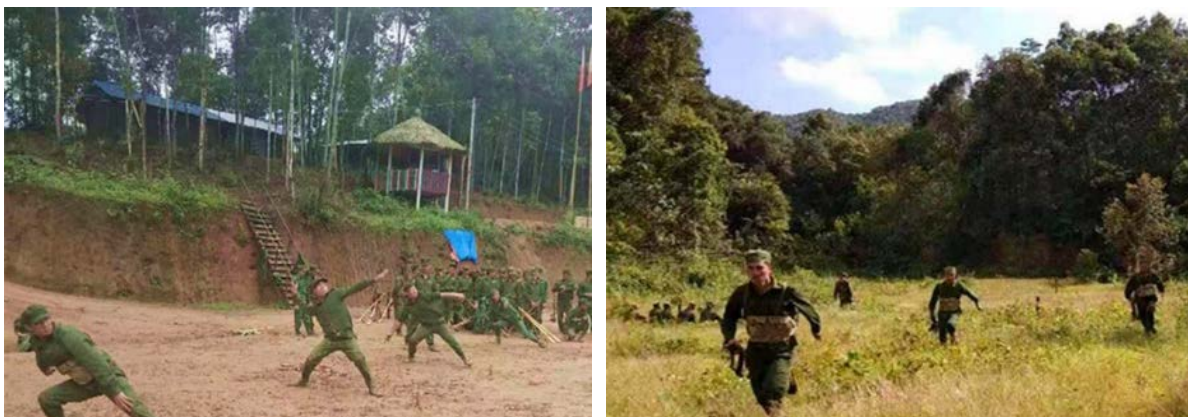
<sup>31</sup> HUMAN RIGHTS WATCH. "World Report 2015: China," <https://www.hrw.org/world-report/2015/country-chapters/china-and-tibet>

<sup>32</sup> Ibid.



*The existence of our MNDAA forces is to fight for the dignity and rights of the oppressed and discriminated peoples. Because of the Burmese chauvinism and military pressure, we have to take up arms and insist on fighting for the political rights of our nation by means of armed struggle.*<sup>33</sup>

According to the message provided by the 305 battalion of MNDAA, the battalion recruited a number of new recruits in May 2019 (the exact number was not disclosed).<sup>34</sup> The MNDAA also frequently promulgates photographs of military training, showing that they still have strong military capacity. Obviously, only when all the forces in Kokang reach reconciliation can the refugee problem be resolved.



**Fig. 4 & 5.** Military training of MNDAA (photo reproduced by the author with permission of Kokang Information Net)

In the author's submission, there are three essential conditions to eliminate the root causes of refugees: de-chauvinism of the Burmese army; negotiation and reconciliation between the new Kokang government and the MNDAA, so as to form an ideological unity in Kokang; and that the Kokang region as a unified whole holds political consultations with the Burmese authorities. However, these three conditions will be extremely difficult to achieve in the foreseeable future. In the short term, the only possibility that will benefit the refugees is the possibility of enacting a refugee law in China, so as to provide legal basis and humanitarian assistance for the possible recurrence of Kokang refugee flows in the future. In recent years, Chinese legal experts and scholars have begun to question the deficiencies of China's immigration law and pay more

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<sup>33</sup> "miandian minzu minzhu tongmeng jun fu zongsiling jian zong canmouzhang Peng Dejun shenru er zhanqu shicha bing zuo zhongyao zhishi [Peng Dejun, deputy commander in chief and chief of general staff of MNDAA, inspected and gave important instructions in the Second Battle Zone]," November 1, 2019, [http://blog.sina.com.cn/s/blog\\_146e99be00102z7zs.html](http://blog.sina.com.cn/s/blog_146e99be00102z7zs.html)

<sup>34</sup> "duanzheng ruwu dongji luxing minzu shiming tongmeng jun 305 ying juxing xinbing ruwu xuanshi yishi [Correct the motivation of enlistment and fulfill the national mission, the 305 battalion of the MNDAA held the swearing in ceremony for recruits to join the army]," *Wangyi*, May 23, 2019, <https://dy.163.com/article/EFSL6KB20515M9K0.html>

attention to the issue of border refugees.<sup>35</sup> Ren Hongsheng, associate professor of China University of Political Science and Law, also pointed out that China should enact a refugee law to adapt to the development of the situation and supplement the deficiencies of existing laws.<sup>36</sup> With the normalization of the Yunnan border refugee production, the Chinese government has to take appropriate measures. In 2016, with the support of the Chinese government, Myanmar Kokang Refugee Voluntary Relief Station (MKRVRS) and other refugee service groups went to Yunnan for refugee relief training.<sup>37</sup> The positive response of Chinese officials to the issue of refugees along the border between China and Myanmar has increased the possibility of promulgating a refugee law in the future.

## Conclusion

The emergence of Kokang refugees is a continuous process because the causes are not addressed. Kokang refugees can be attributed to war and political conflict. Only when political and military problems are solved will the refugee problem subside. Since 2009, the continued struggle between the MNDAA and the Burmese army, as well as the new Kokang government (later called the Kokang Autonomous Region Government), has led to a large number of refugees. At present, there is hardly any possibility of reconciliation between the various forces. Once the refugees return to their home, they have to face the problem of safety and direct retaliation from different forces. During the war, the NGOs that helped Kokang refugees were mainly folk people in Kokang and Yunnan. These organizations were flexible but small-scale, so they were faced with the problem of insufficient resources. The Chinese government has built official refugee camps to provide shelter for the Kokang people who fled to China during the wars. However, international humanitarian organizations have been restricted access to the area, resulting in the loss of international attention and help for the Kokang refugees. One of the problems faced by the Kokang people fleeing to China is that they do not have refugee status because China has not promulgated a domestic refugee law. Therefore, the Chinese government can only manage refugee affairs according to the immigration law, which leads to the difficulty of international relief organizations to intervene. Meanwhile, the legal status of

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<sup>35</sup> Liangyong Song, "yunnan bianjing diqu waiji yimin falü guizhi wenti yanjiu [Study on the legal regulation of foreign immigrants in Yunnan border areas]" (Master diss., Yunnan University of Finance and Economics, 2016).

<sup>36</sup> Hongsheng Ren, "bianjing nanmin ji feifa rujingzhe wenti yu zhongguo de yingdui celüe yanjiu [The problem of border refugees and illegal immigrants and China's Countermeasures]" *Guo Ji Zhan Wang* 9, no. 5 (2017), 41-62.

<sup>37</sup> MOCPROC (Ministry of Commerce of PRC), "Representatives of Myanmar Kokang refugee voluntary relief station and other public welfare organizations went to Yunnan for training" November 22, 2016, <http://www.mofcom.gov.cn/article/difang/201611/20161101872945.shtml>

Kokang refugees in China is that of illegal immigrants, and so some international standards and guarantees for refugees cannot be guaranteed. However, more and more Chinese scholars have begun to call for the promulgation of a refugee law, which may provide some humanitarian protection for the Kokang refugees in the near future if bold war happens again.

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