Dear Sirs,

I would like to refer to your letter of 3 April 2013 regarding the detention of four Bengali men in Rakhine State.

I have received the following information from the authorities about the aforementioned matter:

Please accept, Sirs, the assurances of our highest consideration.

Mr. Tomas Ojea Quintana
United Nations Special Rapporteur on the situation of human rights in Myanmar
Fax: 022 928 9018

Mr. El Hadji Malick Sow
Chair-Rapporteur of the Working Group on Arbitrary Detention

Mr. Anand Grover
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Mr. Juan E. Mendez
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment
Dear Sirs,

I would like to refer to your letter of 3 April 2013 regarding the detention of four Bengali men in Rakhine State.

I have received the following information from the authorities about the aforementioned matter:

- [Name] (alias) [Name] undertook a task to construct temporary shelters for Bengali IDPs in Ohn Daw Chay village, Say Tha Mar village Tract, Sittwe Township.

- On 28 February 2013, at 0900 hrs, a brawl broke out between [Name] (alias) [Name] and Mr. [Name] (land owner). The incident occurred due to the encroachment of the construction work on Mr. [Name]'s land.

- At 1100 hrs on the same day, the family members of Mr. [Name] destroyed some portions of the shelter and a latrine, which were under construction by [Name].

- [Name] (alias) [Name] reported the incident to the local Border Security Force (Nasaka) station No. 29. The personnel from Border Security Force attempted to arrest those who were involved in the destruction of the shelter. During the attempted arrest, the officials faced hostile attacks from the accused and those accompanying him. Therefore, the security officials opened fire to deter them. Zafaw Ahmed, Nawbi Hussein and Mohammed Shwirf were injured. One member of the Border Security Force suffered injuries during the said incident.

- Officials at No. 1 Police Station in Sittwe have opened a case under the Section 333/114 of the Penal Code. On 2 March 2013, four (Zafawr Ahmed, Nawbi Hussein, Mohammed Shwirf and Rahametullah) out of the five accused were arrested. The remaining defendant, known as [Name], is still on the run avoid arrest.

- On 20 March 2013, the four detainees were brought before Sittwe Township Court. They were charged under Section 427/332/114 of the Penal Code. [Name], who is evading arrest, was also charged under section 427/332/114 and 512 of the Penal Code.

24 May 2013
- The four detainees are being held at Sittwee Prison by order of the High Court. They are in good health. They have access to lawyers, medical care and family visits in accordance with the prison procedures.

- The security forces fired warning shots to deter the hostile attacks committed by the accused persons.

- The authorities concerned have not received any complaints filed by the accused or by others on their behalf. In the absence of such complaints, no investigation was conducted about the incident.

- Proper medical care was provided to the injured persons. After proper medical treatment, two defendants were released from Sittwe Hospital at 2100 hrs on 28 February 2013. Another defendant, Nawbi Hussein, was also released from the hospital at 1100 hrs, on 1 March 2013.

- During their detention at the prison, they were provided with medical care. Whenever necessary, they were given access to medical care at Sittwe Township Hospital.

- Out of five accused persons, four were charged at the Sittwe Township Court. One defendant is declared as fugitive.

- The reason for charging the four defendants under section 333 of the Penal Code is that they committed assaults on the police personnel on duty. Therefore, the No.1 Police Station filed a case under section 427/332/114 of the Penal Code. Actions being taken against them are in line with international norms.

Please accept, Sirs, the assurances of our highest consideration.

(Maung Wai)
Ambassador/Permanent Representative

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