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HUMAN RIGHTS COMMITTEE
Sixty-seventh session
18 October - 5 November 1999

DECISIONS

Communication Nº 873/1999

Submitted by:	Mr. Thomas Peter Hoelen (represented by Mr.E. T. Hummels)
Alleged victim:	The author
State party:	The Netherlands
Date of the communication:	23 May 1997 (initial submission)
Documentation references:	none
Date of present decision:	3 November 1999

[ANNEX]

* Made public by decision of the Human Rights Committee.
InadSPR.873

ANNEX

DECISION OF THE HUMAN RIGHTS COMMITTEE UNDER THE OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS
-67th session-

concerning

Communication Nº 873/1999

Submitted by:	Mr. Thomas Peter Hoelen (represented by Mr.E. T. Hummels)
Alleged victim:	The author
State party:	The Netherlands
Date of the communication:	23 May 1997 (initial submission)
Documentation references:	none

The Human Rights Committee, established under article 28 of the International Covenant on Civil and Political Rights,

Meeting on 3 November 1999

Adopts the following:

Decision on admissibility

1. The author of the communication is Mr. Thomas Peter Hoelen, a Dutch citizen, born on 11 October 1970. He claims to be a victim of a violation of articles 14 and 26 of the Covenant. He is represented by Mr. E.Th.Hummels.

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*The following members of the Committee participated in the examination of the present communication: Mr. Abdelfattah Amor, Mr. Nisuke Ando, Mr. Prafullachandra N. Bhagwati, Ms. Christine Chanet, Ms. Elizabeth Evatt, Mr. Louis Henkin, Mr. Eckart Klein, Mr. David Kretzmer, Ms. Cecilia Medina Quiroga, Mr. Fausto Pocar, Mr. Martin Scheinin, Mr. Hipólito Solari Yrigoyen and Mr. Maxwell Yalden.

The facts as submitted

2. On 8 May 1993, the author participated in a demonstration which ended in violent disturbances. On 8 June 1993, the author was found guilty by a single judge of the District Court at The Hague for having committed acts of violence against police personnel by throwing stones. He was sentenced to a fine of NGL 750 and a suspended sentence of two weeks' imprisonment. His appeal was heard on 13 October 1994, 9 and 10 February 1995, and rejected by the Court of Appeal on 24 February 1995. His further (cassation) appeal was rejected on 20 February 1996.

The complaint

3.1 The author claims that his right to equality under article 26 of the Covenant has been violated, because no police officers were prosecuted after the disturbances, although independent reports had established that the police had used unreasonable violence.

3.2 The author further claims that the delay between his conviction and the hearing of the appeal was unduly long, amounting to a violation of article 14. He states that his was a simple case and that a delay of over a year was thus inadmissible.

Issues and proceedings before the Committee

4.1 Before considering any claim contained in a communication, the Human Rights Committee must, in accordance with rule 87 of its rules of procedure, decide whether or not it is admissible under the Optional Protocol to the Covenant.

4.2 The Committee recalls that the prosecution of one person and the failure to prosecute another as such does not raise an issue of equality before the law, since each case has to be judged on its own merits[1]. The author's allegations and the material before the Committee do not substantiate the author's claim that he is a victim of a violation of article 26 in this respect.

4.3 With regard to the delay between conviction and the hearing of his appeal, the Committee considers that the material before it does not substantiate the author's claim that the delay of 14 months constituted a violation of his right to be tried without undue delay, taking into account also the nature of his sentence and the fact that the author had not been detained. This claim is therefore inadmissible under article 2 of the Optional Protocol.

[1] See the Committee's decision declaring inadmissible communication No. 579/1994 (Werenbeck v. Australia), 27 March 1997, CCPR/C/59/D/579/1994, para. 9.9.

5. Accordingly, the Human Rights Committee decides

a) that the communication is inadmissible under articles 2 and 3 of the Optional Protocol;

b) that this decision shall be communicated to the author and, for information, to the State party.

[Adopted in English, French and Spanish, the English text being the original version. Subsequently to be issued also in Arabic, Chinese and Russian as part of the Committee's annual report tothe General Assembly.]