

TONGA CASE INDEX TO 2017

Containing references to cases from the Tonga Law Reports to 2016 and additional decisions of the Court of Appeal in 2012-14, 2016 and March 2017

Prepared by Neil Adsett, former Attorney General, 2017

TONGA CASE INDEX TO 2017

PREFACE

I have prepared and collated this Index to assist lawyers to find relevant cases in the Tonga Law Reports and in recent Court of Appeal decisions. With earlier law reports I have mainly relied upon the index material contained in each volume and for later cases I have made my own index references from what seem to be the important aspects of the decisions of the courts. I have re-categorised many of the older entries to a standard heading as set out on page 3 of this case index.

I hope that this publication will be of assistance to lawyers as they try to find all of the Tonga case law that, together with the statute law and other sources of law, establishes the law of Tonga.

The material included in this version of the Index is noted on the cover page.

Neil Adsett
August 2017

TONGA CASE INDEX TO 2017

Headings -

ADMIN. LAW	**5**
APPEAL	**6**
BIRTHS DEATHS MARRIAGES	**9**
CIVIL PROCEDURE	**10**
COMMERCIAL	**12**
CONSTITUTION	**15**
CONTEMPT OF COURT	**18**
CONTRACT	**19**
COSTS	**24**
CRIMINAL LAW	**25**
CRIMINAL PROCEDURE	**38**
DAMAGES	**42**
DEFAMATION	**45**
ELECTIONS	**46**
EMPLOYMENT LAW	**48**
EQUITY	**50**
ESTOPPEL	**51**
EVIDENCE	**52**
FAMILY LAW	**54**
INJUNCTIONS	**57**
INSURANCE	**58**
JUDICIAL REVIEW	**59**
LAND LAW	**60**
LAW PRACTITIONERS	**76**
MAGISTRATE'S COURT	**77**
NEGLIGENCE	**78**
POLICE	**79**
PRACTICE & PROCEDURE	**79**
PRISONS	**94**
PROBATE AND ADMINISTRATION	**95**
SENTENCING	**95**
STATUTORY INTERPRETATION	**102**
TAX	**103**
TORT	**104**
WORDS AND PHRASES	**107**

ADMIN. LAW

ADMIN. LAW	Burial – right to	Hola v. Tuilakepa	1994 TLR 28
ADMIN. LAW	Chief Justice part of Government – Supreme Court will not hear –can not act –	In re "Tonga Ma'a Tonga Kautaha"	TLR Vol 1 (1908-1959) 5
ADMIN. LAW	Claim against Government – Premier as defendant – Acquisition of land by Crown – Compensation	Tuita v. Premier & Ors	TLR Vol 1 (1908-1959) 85
ADMIN. LAW	Judicial Review – basis for	Touliki Trading v. Fakafanua (No.2)	1996 TLR 145
ADMIN. LAW	Judicial review – delay - leave	Holani v Kingdom of Tonga	1997 TLR 263
ADMIN. LAW	Judicial review - habeas corpus – extradition	Lavulo v. Fifita & Kingdom of Tonga	1995 TLR 201
ADMIN. LAW	Judicial review – procedure – affidavits – cross examination	Taumoepeau v Tonga Water Board	1997 TLR 169
ADMIN. LAW	Judicial review – procedure to be adopted – standing of applicant	Adau'ola & Kingdom of Tonga v. Pohiva	1990 TLR 159
ADMIN. LAW	Judicial review – suspension from school – discipline	Fale v. kingdom of Tonga & Heimuli	1995 TLR 67
ADMIN. LAW	Judicial review – the King – royal prerogatives - unreviewable	Tu'ipulotu v Kingdom of Tonga	1997 TLR 257
ADMIN. LAW	Judicial review unreasonableness – natural justice	Touliki Trading & ors v. Fakafanua	1995 TLR 8
ADMIN. LAW	Liability of Crown in tort – Arrest	Sanft v. Minister of Police Ors	TLR Vol 1 (1908-1959) 117
ADMIN. LAW	Liability of Crown in tort – trespass to goods	Lopeti & Ors v. Akau'ola & Ors	TLR Vol 1 (1908-1959) 110
ADMIN. LAW	Medical Practitioners Registration – delay – statutory duties - damages	Schafer-Macdonald v Health Practioners Reg. Council & Kingdom of Tonga	1997 TLR 69
ADMIN. LAW	Minister of Crown – binds only if delegated – his acts not those of Crown	Seiler v. Kingdom of Tonga authority	1992 TLR 58

ADMIN. LAW	Natural justice – applicability of principles to dismissal from office or employment	Tu'itupou v. Tonga Water Board	1990 TLR 99
ADMIN. LAW	Natural justice – applicability of principles to dismissal from office or employment	Uikelotu v. Tonga Water Board	1990 TLR 121
ADMIN. LAW	Natural justice – principles not applicable to private employment	Hougland v. Tonga Family Planning Association	1989 TLR 87
ADMIN. LAW	Passports - False statement – forms - declaration	Police v Moala	1997 TLR 238
ADMIN. LAW	Suspension of school pupil – natural justice – requirements fully met	Tukuafu v Kingdom of Tonga (CA) Tukuafu v Kingdom of Tonga (SC)	1999 TLR 127 1999 TLR 60
ADMIN. LAW	Ultra vires – suspension of school pupil – principal had no power to suspend	Tukuafu v Kingdom of Tonga (SC)	1999 TLR 60
ADMIN. LAW	Ultra vires – suspension of school pupil – principal had power to suspend	Tukuafu v Kingdom of Tonga (CA)	1999 TLR 127
ADMIN. LAW	Unincorporated body ruled by its constitution – must follow procedural rules	Talakai v 'Aipolo	1999 TLR 89
ADMIN. LAW	Wrongful dismissal – Police Officers – Contract of service – Crown's right to dismiss at will	(T.S. Tuy'akoi v. Deputy Premier & Ors) (Lopeti & Ors v. Akau'ola & Ors)	TLR Vol 1 (1908-1959) 108

APPEAL

APPEAL	- must be raised in court below or notice of appeal	Makoni v. Koloamatangi & Filipe	1990 TLR 50
APPEAL	Action in tort against police-appeal allowed to limited extent for false imprisonment	Nasilai v Kingdom of Tonga (CA)	2010 TLR 101
APPEAL	Against calculation of wharfage fees – no new evidence	Walter Trading Company Ltd v Ports Authority (CA)	2008 TLR 196
APPEAL	Against conviction and sentence – conviction stood – sentence excessive	Tafolo v R (CA)	2008 TLR 200
APPEAL	Against refusal of adjournment – new medical evidence	Parrish v Rush & ors (CA)	2008 TLR 179

APPEAL	Against sentence – Magistrate did not explain reasoning	Kilikiti & ors v Police (SC)	2008 TLR 150
APPEAL	against sentence and conviction – guilty plea – previous convictions	Filimone v R (CA)	2004 TLR 183
APPEAL	Appeal – no basis for interfering with findings of lower court	Wang v Fund Management Ltd & ors (CA)	2008 TLR 204
APPEAL	Appeal against Magistrate's findings- dismissed	Tonga Water Board v Fua & ors (SC)	2009 TLR 227
APPEAL	Application for leave – interlocutory judgment	Bank of Tonga v. Kolo, Vete & Ma'u (No.2)	1995 TLR 175
APPEAL	Assessment of credibility of witnesses – not to be reversed by appellate court	Pohahau and Tauelangi v. Kinikini	1981-1988 TLR 116
APPEAL	Conviction – credibility issues – intervention by magistrate	Halalupe v. Police	1994 TLR 122
APPEAL	Conviction – transcript – inaccuracy – later reasons	Taufa v. Ma'u	1994 TLR 97
APPEAL	Court sets aside perverse civil jury decision and gives judgment that no reasonable jury could avoid	ANZ v Lasike	2016 TLR 131
APPEAL	Criminal Trial – incompetence of counsel	Kula v. R.	1996 TLR 25
APPEAL	Criteria – leave to – case stated	Primary Produce Export v. Masina	1996 TLR 234
APPEAL	Crown did not call all possible witnesses – no obligation to do so	Kapeli v R (CA)	2002 TLR 235
APPEAL	Decision as to award of damages – principles to be applied by appellate court	Tangitau v. Paunga	TLR 1974-1980 92
APPEAL	Decision on matters of fact – principles to be applied by appellate court	Tangitau v. Paunga	TLR 1974-1980 92
APPEAL	Decision on matters of fact – should be reversed and case remitted for re-hearing if court has wrongly refused to admit evidence	To'oa v. Velkuna	TLR 1974-1980 107
APPEAL	Decisions as to assessment of damages – principles applicable	Kaufusi v. Lasa, Kepu, Minister of Police	1990 TLR 139
APPEAL	Decisions as to matters of fact – principles applicable	Brown, Kali, Minister of Lands v. Ofa	1990 TLR 136

APPEAL	Discretion of court appealed from – not to be reversed unless exercised on wrong principles or on irrelevant considerations or failure to consider relevant consideration	Pohahau and Tauelangi v. Kinikini	1981-1988 TLR 116
APPEAL	Finding by trial judge – function of appellate court – influence of demeanour of witness	Jin-Chuan v Li	1999 TLR 140
APPEAL	Grounds based on findings of fact	Kapeli v Piukala (CA)	2008 TLR 193
APPEAL	Grounds of appeal - failure of counsel to conduct case in accordance with Client's instructions not ground for appeal	Gilplin v. Fua & Lawton Construction Ltd	1990 TLR 55
APPEAL	judge – Application for change of - considerations	Lali Media v Lavaka Ata & ors (SC)	2003 TLR 114
APPEAL	Leave to appeal out of time – principles applicable – conditions	Bank of Tonga v. Alatini	1990 TLR 153
APPEAL	Magistrate erred in law or fact and breached his duty – unmeritorious appeal	EM Jones Industries Ltd v Tofoa (SC)	2008 TLR 146
APPEAL	Magistrate ordered penalties for failure to appear – medical report produced	Pohiva v R (SC)	2008 TLR 242
APPEAL	No right of appeal from Supreme Court sitting in appeal from Magistrate	Vete v. Tu'itupou	TLR Volume II (1923-1962) 210
APPEAL	on facts alone – must show that Magistrate had "gone off the tracks"	Fakaanga v Moala (SC)	2004 TLR 6
APPEAL	Principles re matters of fact	Kingdom of Tonga v. Mokofisi	1990 TLR 58
APPEAL	Procedure to be adopted on death of appellant before hearing	Ngahe v. Luani	TLR Volume II (1923-1962) 171
APPEAL	Remission of case to lower court – not appropriate	Commissioner of Inland Revenue v. To'ofohe	1990 TLR 181

APPEAL	Stay of execution pending appeal in cases for possession of land should not be granted if appellant has other accommodation to move to and case has gone on for long time.	Pulu v. Bloomfield	TLR 1974-1980 105
APPEAL	Trial judge had all the evidence	Walter Trading Company Ltd v Ports Authority (CA)	2008 TLR 207
APPEAL	trial judge to evaluate credibility	Kapeli v R (CA)	2002 TLR 235

BIRTHS DEATHS MARRIAGES

BIRTHS DEATHS MARRIAGES	Adoption; UN convention imposes strong burden, usually inter-country adoption is allowed only if suitable care in Tonga is not available; subject to best interests of child	Saavedra v Guardian ad litem	2013 TLR 60
BIRTHS DEATHS MARRIAGES	Nationality - Tongan subject - if born at any time of a Tongan father	R v Schaumkel	2012 TLR 94
BIRTHS, DEATHS AND MARRIAGES	Amendment of Birth Register	Ex parte Christina	TLR Vol 1 (1908-1959) 34
BIRTHS, DEATHS AND MARRIAGES	Cancellation of registration – principles applicable	Lapa v. Kingdom of Tonga	1990 TLR 124
BIRTHS, DEATHS, AND MARRIAGES	Application for registration of birth in Tongan Register – not Tongan parentage – not allowed	Jones, Re Application by (SC)	2000 TLR 276
BIRTHS, DEATHS, AND MARRIAGES	application to have overseas born children registered in Tonga	Paea, Re Application by (SC)	2002 TLR 134
BIRTHS, DEATHS, AND MARRIAGES	no provision for dual citizenship	Fie'eiki, Re Application by (SC)	2002 TLR 379
BIRTHS, DEATHS, AND MARRIAGES	Primogeniture, unrebutted presumption of legitimacy, eldest son succeeds to title	Aleamotu'a v Fielakepa	2015 TLR 556
BIRTHS, DEATHS, AND MARRIAGES	registration of Tongan born abroad – rights as at time of birth	Leaman, Application by (SC)	2002 TLR 329

CIVIL PROCEDURE

CIVIL PROCEDURE	Action to enforce public servant's (police) employment rights – involves both public and private law and civil action as well as judicial review is available; statutory employment contract here replaces crown right to dismiss at will	Ve'ehala v Kingdom of Tonga	2014 TLR 235
CIVIL PROCEDURE	Application for security for costs - by plaintiff- application refused	MBF Banks Ltd v Fonua & ors (LC)	2005 TLR 25
CIVIL PROCEDURE	Application to call further evidence- no new evidence- application denied	Takataka & ors v Hurrell & ors (CA)	2005 TLR 359
CIVIL PROCEDURE	Evidence lacking- discovery ordered	Fonua v Tonga Communications Corporation Ltd (SC)	2005 TLR 55
CIVIL PROCEDURE	Injunction – interim injunction – principles applicable	Paseka v. Langi	1989 TLR 01
CIVIL PROCEDURE	Interim injunction – principles applicable	Commodities Board of Tonga v. Alain Herbreteau SA	1990 TLR 170
CIVIL PROCEDURE	Interrogatories – jurisdiction of Supreme Court to issue	Roberts v. Bank of British Columbia	1981-1988 TLR 119
CIVIL PROCEDURE	Judgment – enforcement by charging order	Intractor Trading Co. Ltd. v. Finau	1990 TLR 133
CIVIL PROCEDURE	Judgment – enforcement by distress	Alatini v. Church of Jesus Christ of Latter Day Saints & Muti	1990 TLR 1
CIVIL PROCEDURE	Judgment – interest on amount claimed may be awarded	Teta Ltd. v. Ullrich Exports Ltd	1981-1988 TLR 127
CIVIL PROCEDURE	Judgment, enforcement of – principles applicable	Tonga Air Services Ltd. v. Fowler	1989 TLR 04
CIVIL PROCEDURE	LIMITATION OF ACTIONS Application of English Law- discretion – fatal accident	Save v. Kingdom of Tonga	1993 TLR 90
CIVIL PROCEDURE	LIMITATION OF ACTIONS Claim to allotment statute barred even although claimant unaware of grounds for claim.	Vaka'uta v. Vakas'uta and Minister of Lands	TLR 1974-1980 26
CIVIL PROCEDURE	LIMITATION OF ACTIONS enforcement of judgment – Not applicable to	Tonga Air Services Ltd v. Fowler	1989 TLR 04
CIVIL PROCEDURE	LIMITATION OF ACTIONS Judicial review – delay – proof of good reason	Holani v Kingdom of Tonga	1997 TLR 263

CIVIL PROCEDURE	LIMITATION OF ACTIONS Land – time runs from refusal – accrual of cause of action	Kulitapa v Minister of Lands Minister of Lands v Kulitapa	1997 TLR 122 1997 TLR 128
CIVIL PROCEDURE	LIMITATION OF ACTIONS Limitation section (S.147) applies to Nobles	Etu v. Nuku	TLR Volume II (1923-1962) 116, 161
CIVIL PROCEDURE	LIMITATION OF ACTIONS Runs from the expiry of last loan agreement – prima facie claim is statute-barred	Bank of Tonga v Hautau	1999 TLR 224
CIVIL PROCEDURE	LIMITATION OF ACTIONS Time does not run in land cases during minority of plaintiff	Motuliki v Namoa, Motuliki and Minister of Lands	1981-1988 TLR 141
CIVIL PROCEDURE	LIMITATION OF ACTIONS Time limitation provisions only bar proceedings to enforce claim, but do not extinguish title	Ilavalu v. Minister of Lands	TLR 1974-1980 29
CIVIL PROCEDURE	LIMITATION OF ACTIONS Time runs from grant of letters of administration in respect of fraudulent inclusion of property within estate of deceased	Tukuafu v. Kongaika and Tafea	TLR 1974-1980 10
CIVIL PROCEDURE	LIMITATION OF ACTIONS Time runs from the time a right to bring the proceedings accrued to the person through whom the plaintiff claims	Motuliki v Namoa, Motuliki and Minister of Lands	1981-1988 TLR 141
CIVIL PROCEDURE	LIMITATION OF ACTIONS Transfer of banking funds – without consent – not extend time	Bank of Tonga v Havea	1997 TLR 226
CIVIL PROCEDURE	LIMITATION OF ACTIONS When time starts to run	Halafihi v. Kalaniuvalu	TLR Volume II (1923-1962) 55, 149
CIVIL PROCEDURE	Orders sought regarding proceedings- timetabling orders made	Taione & ors v Kingdom of Tonga	2005 TLR 62
CIVIL PROCEDURE	Pleadings – further particulars – principles applicable	Pohiva v. Akau'ola	1989 TLR 53
CIVIL PROCEDURE	Security for costs- factors to take into account- order refused	Fainga'a v Lelea (SC)	2005 TLR 8
CIVIL PROCEDURE	Stay of execution of Judgment pending appeal	Vaikona v. Fuko (No.3)	1990 TLR 114
CIVIL PROCEDURE	Striking out – sufficiency of pleading	Akau'ola & Kingdom of Tonga v. Pohiva	1990 TLR 159

CIVIL PROCEDURE	Supreme Court has power to order removal of case from Magistrate to it	PSA v Tu'ivakano	2015 TLR 432

COMMERCIAL

COMMERCIAL	Agency - Apparent agency as effective as deliberate agency – claim failed and counterclaim succeeded	Pacific Royal Hotel v Vakalahi & ors (SC)	2007 TLR 36
COMMERCIAL	Agency - Question of authority and whether principal - defendant failed to establish liability	Moapa Enterprises Trading as JM Dtore v Island Beverage Ltd (SC)	2009 TLR 265
COMMERCIAL	Agency - Shipping company – not an agent of the Government although its contractual obligations were guaranteed by the Government	Reef Shipping Co. Ltd. v. Prime Minister of Tonga	1981-1988 TLR 7
COMMERCIAL	Agency - Whether acting as principal or agent – held that liability as principal was not negatived	Ramanlal and Sons Ltd v Teta Tours Ltd (SC) Teta Tours Ltd v Ramanlal & Sons Ltd (CA)	1999 TLR 34 1999 TLR 170
COMMERCIAL	Bank loan, bank in advantageous position needs to negative unconscionability before being allowed to enforce mortgage	ANZ v Kavaefiafi	2015 TLR 74
COMMERCIAL	Banking – Consolidation of accounts – consent – transfer of funds	Bank of Tonga v Havea	1997 TLR 226
COMMERCIAL	Banking – Defences – non est factum – misleading – duties – banker	Bank of Tonga v. Pekipaki & ors	1996 TLR 81
COMMERCIAL	Banking – defendant declined loan application – plaintiff must establish case on balance of probabilities	Pekipaki v Tonga Development Bank & ors (SC)	2006 TLR 48
COMMERCIAL	Banking – Duty of care – due diligence – damages	Bank of Tonga v. Peacock	1996 TLR 175
COMMERCIAL	Banking – Equitable mortgage or equitable charge – rights to enforce	Bank of Tonga v. Alatini & Muti	1991 TLR 39
COMMERCIAL	Banking – Guarantee – explicit terms - reductions	Liava'a v Bank of Tonga	1997 TLR 199
COMMERCIAL	Banking – Guarantees – fiduciary duties – service	Bank of Tonga v. Pekipaki & ors	1996 TLR 81

COMMERCIAL	Banking – implied terms – transfer of funds	Bank of Tonga v Havea	1997 TLR 226
COMMERCIAL	Banking – Joint liability – borrowers	Bank of Tonga v. Liava'a	1996 TLR 198
COMMERCIAL	Banking – Liability of bank for failing to inform customer promptly of dishonor - damages	Bank of Tonga v Shell Company (Pacific Islands) Ltd (CA)	2000 TLR 329
COMMERCIAL	Banking – loans – certainty – variation	Taufaeteau v. Bank of Tonga	1996 TLR 122
COMMERCIAL	Banking – Security for loan – security did not belong to defendant	Tonga Development Bank v Carafa (SC)	2001 TLR 260
COMMERCIAL	Banking – terms - construction	Liava'a v Bank of Tonga	1997 TLR 199
COMMERCIAL	Banking – Terms – variations – interest	Taufaeteau v. Bank of Tonga	1996 TLR 122
COMMERCIAL	Banking – Undue influence of bank – no evidence therefore dismissed	Fonua v MBf Bank Ltd	1999 TLR 4
COMMERCIAL	Bona fide purchaser for value without knowledge	Manuofetoa v Fonua	1998 TLR 82
COMMERCIAL	Companies - Application to put liquidation orders aside - failed to establish it would be just and equitable	Kava v Australia and New Zealand Banking Group Limited (SC)	2009 TLR 420
COMMERCIAL	Companies - Appointment of Investigator – Contract of service – Duties of directors and secretary – Authority of general Manager	Stringer v. Tonga Ma'a Tonga Kautaha	TLR Vol 1 (1908-1959) 19
COMMERCIAL	Companies - Company failed to follow Act – ordered for company to rectify the share register	Laidlaw Holdings Ltd v Maxam Gold Bank Ltd (SC)	2000 TLR 125
COMMERCIAL	Companies - Court- appointed receiver- not incorporated company; was corporative society- appointment set aside	Fresha Exports Ltd v Tonga Co-operative Federation Ltd (SC)	2010 TLR 200
COMMERCIAL	Companies - Director – duties – fraudulent trading	'Utu'atu v. Afeaki	1996 TLR 92
COMMERCIAL	Companies - Effect of not reregistering company on legal status of company – still able to litigate	Fukofuka v Peacock (SC)	2001 TLR 86

COMMERCIAL	Companies - Liquidation – proof of debt – where there is a voluminous mass of evidence it is correct for a court to adopt a broad overall approach to the assessment of evidence	O G Sanft Ltd. v. Tonga Tourist and Development Co. Ltd.	1981-1988 TLR 17
COMMERCIAL	Companies - Liquidation- liquidator should not have to justify the documentation requested	Friendly Island Fishing Company Limited (in liquidation), In re (SC)	2003 TLR 327
COMMERCIAL	Companies - No legal ownership until registration – equitable interest	Maxam Gold Bank Ltd v Laidlaw Holdings Ltd (No. 2((CA)	2000 TLR 131
COMMERCIAL	Companies - petition for liquidation – opposed – court appointed a liquidator	Miller v Friendly Islands Fishing & ors (SC)	2002 TLR 358
COMMERCIAL	Companies - Shareholder – unpaid calls	'Utu'atu v. Afeaki	1996 TLR 92
COMMERCIAL	Competition - ABUSE OF MONOPOLY OR DOMINANT POSITION	Walter trading v Cable and Wireless	1989 TLR 41
COMMERCIAL	Duties of bailee – damages – breach	Li v. Katoa	1996 TLR 195
COMMERCIAL	Duties of bailee – liability	Mataele v. Havili	1994 TLR 73
COMMERCIAL	Equitable mortgage – possible over leasehold land	Faua Development v Fakafanua	Unreported, LA1/2011 (2012 Ct of Appeal)
COMMERCIAL	Fiduciary Duties – full disclosure	Kalaniuvalu Fotofili v. Free Wesleyan Church & Min. of Lands (No.2)	1995 TLR 101
COMMERCIAL	International - Matters of evidence and procedure to be determined by lex fori	McGregor Consultant and Management Services Ltd v. Kama	1981-1988 TLR 90
COMMERCIAL	Misrepresentation - Nike jeans – reasonable examination would have shown they were not Nike	Tuaimei'uta v Prema (SC)	2000 TLR 378
COMMERCIAL	Partnership - Contemplated partnership – refund of contributions	Fumera v Pozzati	1998 TLR 109

COMMERCIAL	Partnership - Creation - intentions of parties Duties of partners - utmost good faith Termination - any partner may terminate without notice Termination - assets to be disposed of in accordnace with Partnership Act 1890 UK	Murti v. Afeaki & Kaitapu	1990 TLR 188
COMMERCIAL	Partnership - Principles applicable	Tu'itupou v Cocker	1989 TLR 49
COMMERCIAL	PPSA doesn't apply to security created prior to Act, if case seeks only possession of the building (not land) it should be in the Supreme Court (not Land Court) obiter quaere mortgage of lease interest in land? Equitable security over lease?	Westpac v Fonua	2014 TLR 94
COMMERCIAL	Shipping - C & F Contract – insurance	Carpenter v. Jewett Cameron	1994 TLR 5
COMMERCIAL	Shipping contract – when loaded on board	'Ahoia v. NZ Pacific Container Lines Ltd	1994 TLR 54
COMMERCIAL	Trade Marks - Passing off – distinctive goods	Nestle (Fiji) Limited v Tonga Cooperative Federation	1998 TLR 120
COMMERCIAL	Vehicle seized under writ of distress – question of ownership of vehicle – when does property pass?	Fifita v Bailiff Officers	1999 TLR 158

CONSTITUTION

CONSTITUTION	A Noble lost his title and estate under Land Act after conviction – claim to have it reinstated dismissed	Veikune v The Kingdom of Tonga (LC)	2007 TLR 207
CONSTITUTION	Act of Legislative Assembly – jurisdiction – corporations – jurisdiction	Touliki Trading & & ors v. Fakafanua	1995 TLR 8
CONSTITUTION	Cl 82 requires Acts to be read subject to Constitution so apparent variance doen't always mean invalidity eg PPSA extension to securities over leases	Westpac v Fonua	2014 TLR 94
CONSTITUTION	cl. 99 of Constitution – "may" in this context means "shall" – even where these words were both used in the same clause	Tupou v Saulala & ors (SC)	2004 TLR 158

CONSTITUTION	Clause 1 – Clause 85 – Suspension of Laws – Retrospective Laws – Powers of Chief Justice	President & Trustees of Tonga Ma'a Tonga Kautaha	TLR Vol 1 (1908-1959) 9
CONSTITUTION	Clause 111 – not inconsistent with s.76 (e) Land Act	Fifita v. Minister of Lands and Huahulu	1981-1988 TLR 65
CONSTITUTION	Clause 4	ex parte S. H. KOLI & Ors	TLR Vol 1 (1908-1959) 33
CONSTITUTION	Clause 4, 54 – Retrospective laws	H.K. Bennett etc. v. Siaosi Maeakafa	TLR Vol 1 (1908-1959) 22
CONSTITUTION	Clause 50 – disqualification from election Interpretation – principles for interpretation	Vaikona v. Fuko (No.2)	1990 TLR 68 1990 TLR 148
CONSTITUTION	Clause 6 Marriage performed on Sunday	F. Cowley v. H. Aholelei	TLR Vol 1 (1908-1959) 74
CONSTITUTION	Clause 65 (electoral candidates); candidate fails to provide the required clearance in time, held that the exact time specified was to be strictly applied; principles discussed	Supervisor of Elections v Tupouniua	November 2014 Ct of Appeal
CONSTITUTION	Clause 7	R. v. Viliame Oleni	TLR Vol 1 (1908-1959) 15
CONSTITUTION	Clause 73 – immunity from judgment during sitting, meaning of – suspends effect of judgment	Utoikamanu v Lali Media Group Ltd (CA)	[2003] TLR 218, at 229
CONSTITUTION	Clauses 18, 44, 68	Tuita v. The Premier & Ors	TLR Vol 1 (1908-1959) 85
CONSTITUTION	Conduct of worshippers – court would never rule on purely spiritual matters Trustees acted outside their power - liable	Saafi v Veikoso (SC)	2000 TLR 83
CONSTITUTION	Constitutional damages-restriction on availability- void	Taione & ors v Kingdom of Tonga (SC)	2005 TLR 67
CONSTITUTION	Contempt of court – freedom of speech – balance	Attorney General v. Moala (No.2)	1996 TLR 164
CONSTITUTION	Contempt of court - impeachment	Attorney General v Fusitu'a, Akau'ola, Moala	1997 TLR 18
CONSTITUTION	Criminal charge – internal proceedings of Legislative Assembly – autrefois convict	Pohiva v Lasike	1997 TLR 246

CONSTITUTION	Customary rights – survival of - legislation	Faletau v 'Akau'ola	1997 TLR 185
CONSTITUTION	Discriminatory law – Land Act – void	Primary Produce Exports v. Masima	1996 TLR 234
CONSTITUTION	Freedom of expression- Acts too restrictive- void	Taione and ors v Kingdom of Tonga (SC)	2005 TLR 67
CONSTITUTION	Freedom of speech- ban of newspaper- appeal dismissed	Lali Media & ors v 'Utoikamanu & ors (SC) 'Utoikamanu v Lali Media Group Ltd (CA)	2003 TLR 186 2003 TLR 218
CONSTITUTION	Jurisdiction – property rights, right to check constitutionality of Acts, effect of cl 1, 4, fundamental freedoms	Touliki Trading v. Fakafanua (No.2)	1996 TLR 145
CONSTITUTION	LEGISLATIVE ASSEMBLY Contempt – Constitution – Supreme Court – habeas corpus	Minister of Police v Moala, Akau'ola, Pohiva	1997 TLR 209
CONSTITUTION	LEGISLATIVE ASSEMBLY Contempt – privilege – committal – habeas corpus	Moala & ors v. Min. of Police (No.1, 2, 3)	1996 TLR 202, 207, 211
CONSTITUTION	LEGISLATIVE ASSEMBLY Internal Proceedings – jurisdiction	Touliki Trading & ors v. Fakafanua	1995 TLR 8
CONSTITUTION	LEGISLATIVE ASSEMBLY Privilege – constitution	Fotofili v. Siale	1996 TLR 227
CONSTITUTION	Nationality - Loss of Tongan – loss of rights	Croci v. Moa & Fifita	1996 TLR 118
CONSTITUTION	Nationality – Tongan subject Retrospective legislation	Edwards v. Kingdom of Tonga	1994 TLR 10
CONSTITUTION	Parliament – contempt, habeas corpus	Moala & ors v. Min. of Police (Nos.1, 2, 3)	1996 TLR 202, 207, 211
CONSTITUTION	Power of Supreme Court – proceedings of Legislative Assembly	Minister of Police v Moala, Akau'ola, Pohiva	1997 TLR 210
CONSTITUTION	Principles of interpretation	Finau v. Alafoki Tu'itavake v. Porter, Govt. of Australia and Attorney-General	1989 TLR 66 1989 TLR 14
CONSTITUTION	Privilege – scope – court	Fotofili v. Siale	1996 TLR 227
CONSTITUTION	question as to right to trial by jury – statutory interpretation	Tupou v Saulala & ors (SC)	2004 TLR 158
CONSTITUTION	Retrospective legislation	Bennett v. Bennett	1989 TLR 45

CONSTITUTION	Retrospective legislation – new Act	Schafer-Macdonald v Health Practitioners Reg. Council & Kingdom of Tonga	1997 TLR 69
CONSTITUTION	Royal prerogatives if regulated by the Constitution may be reviewed, but if unfettered (no parameters prescribed) are not reviewable by the courts	Aleamotu'a v Fielakepa	2015 TLR 556
CONSTITUTION	Royal prerogatives – not reviewable in Court	Tu'ipulotu v Kingdom of Tonga	1997 TLR 257
CONSTITUTION	Royal prerogatives [re aliens] superseded by statutory provisions covering the subject	Pedras v PM and ors	2014 TLR 26 and 217
CONSTITUTION	Texts – conflict between English and Tongan texts	Vaikona v. Fuko (No.2)	1990 TLR 68 1990 TLR 148
CONSTITUTION	Tongan nationality – interpretation of Nationality Act – amendment applies "retrospectively"	Crown v Schaumkel	2012 TLR 94
CONSTITUTION	Trial – exclusion – of defendant	Sikuea, 'Akauola v Police	1997 TLR 190
CONSTITUTION	Validity of legislation- three Acts declared void	Taione & ors v Kingdom of Tonga (SC)	2005 TLR 67

CONTEMPT OF COURT

CONTEMPT OF COURT	Independence of Magistrate attacked, fine of $2,500 for editor and $500 for publisher – need to assess each offender	Tapueluelu v R	2014 TLR 84
CONTEMPT OF COURT	Administration of justice – Constitution – Court order; Scandalising the court	Attorney General v Fusitu'a, Akau'ola, Moala Attorney General v Akau'ola Akau'ola v Attorney General	1997 TLR 18 1997 TLR 36 1997 TLR 33
CONTEMPT OF COURT	Application for contempt of court for non-compliance with court orders – not at non-compliance stage	Fresha Export Ltd v Fung Shing Development Co Ltd (SC)	2007 TLR 206
CONTEMPT OF COURT	Bare bones only should have been reported, but time from publication to trial is relevant	Attorney General v Manuofetoa	2004 TLR 24
CONTEMPT OF COURT	Caution – unlimited power – proof	Attorney General v. Moala & ors	1996 TLR 160

CONTEMPT OF COURT	contemnor must be proved to have been aware of order – not proved	Peacock v Hala'api'api (CA)	2002 TLR 224
CONTEMPT OF COURT	contempt of Court – newspaper article on crime	Attorney General v Manuofetoa & ors (SC)	2004 TLR 24
CONTEMPT OF COURT	Fine should reflect culpability and seriousness	Attorney General v Ulakai (SC)	2000 TLR 10
CONTEMPT OF COURT	Freedom of speech – scandalizing court – interference justice	Attorney General v. Moala (No.2)	1996 TLR 164
CONTEMPT OF COURT	Intention of defendant relevant to penalty	Attorney General v Ulakai	1999 TLR 259
CONTEMPT OF COURT	More serious when committed by officer of the Court	Attorney General v Ulakai	1999 TLR 259
CONTEMPT OF COURT	Newspaper article to be read as a whole;" questionable", "suspicious" Magistrate decision	AG v Vatikani	2015 TLR 287
CONTEMPT OF COURT	Publication of comments on credibility of witnesses during trial – deputy editor responsible	Attorney General v 'Akau'ola	1999 TLR 71
CONTEMPT OF COURT	Publication of comments on credibility of witnesses during trial – editor and reporter fined	Attorney General v Pou'uhila	1999 TLR 86
CONTEMPT OF COURT	Real risk of prejudicing fair trial – balance with freedom of press	Attorney General v Ulakai	1999 TLR 259
CONTEMPT OF COURT	Real risk of undermining public confidence in the administration of justice	Attorney General v Namoa (SC)	2000 TLR 59
CONTEMPT OF COURT	Scandalising the court – freedom of speech no relevant application	Namoa v Attorney General (CA)	2000 TLR 70

CONTRACT

CONTRACT	Agreement for sale and purchase of 'api – unfair and oppressive	Fonohema v Piukala (LC)	2001 TRL 286
CONTRACT	Agreement not registered – registration unnecessary	Etu v. Mo'unga	TLR Volume II (1923-1962) 198
CONTRACT	Agreement registered by leave of Judge seven months after execution, good	Tui'one v. Finau	TLR Volume II (1923-1962) 206

CONTRACT	authority to agree terms of charter – master of vessel has authority	International Watersport Management Ltd v Pearl Creations Company Ltd (CA)	2002 TLR 214
CONTRACT	Breach of agreement – no evidence therefore dismissed	Fonua v MBf Bank Ltd	1999 TLR 4
CONTRACT	breach of contract	Dateline Shipping Travel Ltd & ors v Veikoso (CA) Veikoso v Dateline Shipping & ors (SC)	2004 TLR 72 2004 TLR 56
CONTRACT	breach of contract – lack of performance of implied condition precedent	Maui Fisheries Company Ltd v Air Pacific Airlines Ltd (SC)	2002 TLR 85
CONTRACT	Calling attesting witness	Pohahau v. Fuka	TLR Volume II (1923-1962) 191
CONTRACT	Car ownership - loan – respondent acted in good faith	Takataka & ors v Hurrell & ors (CA)	2006 TLR 260
CONTRACT	Common mistake involving house - remedied	Tonga Development Bank v Howard (SC)	2001 TLR 25
CONTRACT	Conflicting agreements – former in time prevails	Makoni v. Koloamatangi & Filipe	1990 TLR 50
CONTRACT	Construction of term- context to be considered- appeal dismissed	Wiebenga v ‘Uta’atu (CA)	2005 TLR 354
CONTRACT	Contract – when liability incurs	Tonga Devpt Bank v. ’Aukamea	1996 TLR 59
CONTRACT	Contract Act does not prevent proceedings for conversion of assets of partnership created by oral agreement.	Tangitau v. Paunga	TLR 1974-1980 92
CONTRACT	Contract disagreement – interim injunction sought – defendant required to vacate	Mafi v Ramsay (SC)	2008 TLR 245
CONTRACT	Contribution to contemplated partnership - refund	Fumera v Pozzati	1998 TLR 109
CONTRACT	Debt – loan - proof	Lin v Liou	1997 TLR 206

CONTRACT	Deed of guarantee of performance of obligations under contract does not include arbitration award Deed of guarantee of performance of obligations under contract does not extend to include obligations arising under subsequent material variations to the contract which have not been consented to by the guarantor.	Reef Shipping Co Ltd v Prime Minister of Tonga	1981-1988 TLR 7
CONTRACT	Delivering Ship – Repairs to ship – No written agreement – Contract unenforceable	Smith & Ors. v. Sione Fonua & Ors.	TLR Vol 1 (1908-1959) 59
CONTRACT	Duress – payment sought to be returned on grounds of economic duress	Bank of Tonga v Tulikihakau	1999 TLR 182
CONTRACT	Duty to mitigate - no breach of duty proved	Lita Trading Enterprises Ltd v Moala (CA)	2005 TLR 324
CONTRACT	Extrinsic evidence – receivable	Sun Islands v. Fewtrell	1991 TLR 8
CONTRACT	failed to prove any breach	Fa'aoa & ors v Tonga Development Bank (SC)	2002 TLR 317
CONTRACT	Forbearance – consideration	Bank of Tonga v. Peacock	1996 TLR 175
CONTRACT	Fraud – voidable – rescission	Hafoka v. Soakai	1991 TLR 17
CONTRACT	Frustration of contratct principles discussed	Ha'Apai marine v ANZ	2011 TLR 23
CONTRACT	Fundamental Breach	Masiwawa v. Tupouniua	1990 TLR 15
CONTRACT	Immoral consideration – contract unenforceable	Lyden v. F. Folau	TLR Vol 1 (1908-1959) 39
CONTRACT	Interpretation – whether direct relationship or agency relationship	Ramanlal and Sons Ltd v Teta Tours Ltd (SC) Teta Tours Ltd v Ramanlal & Sons Ltd (CA)	1999 TLR 34 1999 TLR 170
CONTRACT	Interpretation of terms of refund	Reisedienst Quick Tours Ltd v Fischer (CA)	2001 TLR 197

CONTRACT	Jurisdiction - well established that parties to a contract may agree In advance on the forum which is to have jurisdiction to determine disputes arising between them.	Kalokalo-v-Faka'osifolau & Ors	Unreported, Supreme Court of Tonga, CV 183/2008, March 2012
CONTRACT	Land – breach – custom or contract	Po'uhila v. Veikune	1996 TLR 11
CONTRACT	Lawyers fees – No written agreement – Right to recover	S. A. Kaho v. T. Akau'ola	TLR Vol 1 (1908-1959) 91
CONTRACT	layby agreement – whether a meeting of the minds	Taufa v Singh & ors (SC)	2002 TLR 26
CONTRACT	Limitation – when liability incurs	Tonga Development Bank v. 'Aukamea	1996 TLR 59
CONTRACT	Loan agreement- company loan not personal loan	MBF Bank Ltd v Filipe (SC)	2005 TLR 218
CONTRACT	money allegedly owing for goods – not proved to be owing personally	FC Nichols (Proprietary) Ltd v Bloomfield (SC)	2006 TLR 28
CONTRACT	No meeting of the minds- no contract- found for defendants	Moala v Stevens & ors (SC)	2010 TLR 155
CONTRACT	Once possession and title pass to purchaser vendor has no right to repossession	Fukofuka v Peacock (SC)	2001 TLR 86
CONTRACT	Open contract – not void for uncertainty	Zerza v Lapi	1998 TLR 149
CONTRACT	Oral agreement – evidence	Moala v. Valu	1991 TLR 60
CONTRACT	Oral agreement for occupation of land is contrary to s.13 Land Act and illegal, and will not be enforced by the courts	Fakatava and Fakatava v. Koloamatangi and Minister of Lands	TLR 1974-1980 16
CONTRACT	Pledge – contract of pledge – elements and effect	Alatini v. Church of Jesus Christ of Latter Day Saints & Muti	1990 TLR 1
CONTRACT	Proof of agreement – balance of probabilities	Allied Foods Co Ltd v Moa (SC)	2000 TLR 279
CONTRACT	Reference in a contract to an Act was held to be a reference to that Act as amended from time to time, not as at date of contract	PSC v Fukofuka	2014 TLR 89
CONTRACT	Release of person from liability under contract must be supported by consideration unless it operates as promissory estoppel	Tangitau v. Paunga	TLR 1974-1980 92
CONTRACT	Sale – No written agreement – Goods to be supplied – purchase price paid	T. Siu v. L. Holahia	TLR Vol 1 (1908-1959) 56

CONTRACT	Sale – When does property pass – No written agreement	S. Wilson v. S. Lino	TLR Vol 1 (1908-1959) 50
CONTRACT	Sale and purchase agreement – no evidence – claim dismissed	Kapeli v Piukala (SC)	2007 TLR 280
CONTRACT	Sale of horse – exchange of horses	F. Ve'etutu v. S. Vaihola Talo	TLR Vol 1 (1908-1959) 38
CONTRACT	Sale of launch – Written agreement unnecessary – Rescission of verbal agreement	S. Vaiangina v. P. Kuliha'apai	TLR Vol 1 (1908-1959) 46
CONTRACT	Sales of goods – unpaid purchase price	Manuofetoa v Fonua	1998 TLR 82
CONTRACT	Security – bank – privity	Bank of Tonga v. Liava'a	1996 TLR 198
CONTRACT	Special terms claimed- counterclaim- appeal allowed to set aside orders below	South Pacific Produce Ltd v Procorp Company Ltd (CA)	2005 TLR 319
CONTRACT	Specific performance	Vaioleti v. Cross & Commodities Board of Tonga	1990 TLR 108
CONTRACT	squash growing agreement claimed – no evidence	South Pacific Produce Ltd & ors v Procorp Company Ltd & ors (SC)	2004 TLR 88
CONTRACT	terms of contract – court interpreted contract	Wolfgramm & ors v Robertson & ors (SC)	2006 TLR 349
CONTRACT	Uncertainty – enforceability	Seluini v. Faletau & ors	1996 TLR 47
CONTRACT	undisclosed principal - supplied goods unsuitable for resale	Moala v Lita Trading Enterprises Limited (SC)	2004 TLR 151
CONTRACT	Undisclosed principal doctrine- no relevance	Lita Trading Enterprises Ltd v Moala (CA)	2005 TLR 324
CONTRACT	Unlawful – growing crops – constitution	Primary Produce Exports v. Masima	1996 TLR 234
CONTRACT	Unpaid invoices- defendant liable to pay	Tui International v Nasilai (SC)	2005 TLR 270
CONTRACT	Warranty or condition	B.P.T. Ltd v. Tohi	1996 TLR 63
CONTRACT	Written agreements are rarely qualified by allegations of verbal agreements to contrary, even at summary judgment stage; estoppel, unconsciencability etc discussed	Moehau v Westpac	2013 TLR 71

COSTS

COSTS	Against Crown – slovenly preparation led to delay	R v Tupou (CA)	2001 TLR 169
COSTS	Amount awarded would have fallen into jurisdiction of lower court – winning party's costs reduced accordingly	Knab v Hoeller (SC)	2001 TLR 83
COSTS	Appeal to vary costs order – unique constitutional matter previously undecided	Veikune v Kingdom of Tonga	2008 TLR 60
COSTS	Awarded to and from litigants – not for barrister to claim	Wilson v Attorney General of Tonga (SC)	2000 TLR 1
COSTS	Borne as being in ordinary course of business – should be paid by unsuccessful party	Secretary of Fisheries v Lanivia	1999 TLR 179
COSTS	Costs usually follow the result but if a small judgement is won and the far greater claim and related allegations are rejected, then here an order that neither party gets costs is proper	‘Uta’Atu v Naufahu	2013 TLR 64
COSTS	Crown liability - incompetence	R v Puloka (CA)	2000 TLR 335
COSTS	Defendants – successful – discretion	Nukuma’anu v. Aholelei	1996 TLR 1
COSTS	Determination of proportionate liabilities	‘Ameleki v Nai (No. 2) (LC)	2000 TLR 258
COSTS	Discretion – no award	Sun Islands v. Fewtrell	1991 TLR 8
COSTS	Discretion – no award either party	B.P.T. Tonga Ltd v. Tohi	1996 TLR 63
COSTS	Dismissed charges – costs not awarded against Crown	R v Tonga (SC)	2000 TLR 40
COSTS	Factors in assessment of quantum	‘Ameleki v Nai (No. 2) (LC)	2000 TLR 258
COSTS	ill-drafted statement of claim – costs awarded to defendant	Paea v Prisons Court of Inquiry & ors (SC)	2002 TLR 265
COSTS	Law practitioners – solicitor/client costs - taxation	Spoutz v Taufaeteau, Tu’utafaiva	1997 TLR 154
COSTS	misgivings as to presentation of case - reduced costs accordingly	Church of Tonga v Pacific Trading Ltd & ors (SC)	2002 TLR 288
COSTS	no attempt to resolve without litigation – costs not awarded	Ha'amo Growers Company Ltd & ors v Squash Export Company Ltd & ors (SC)	2002 TLR 98

COSTS	Not regarded as penalty	Attorney General v Ulakai (SC)	2000 TLR 10
COSTS	Overseas rate must be applied for before trial	Taxpayer A v Min. Revenue	2015 TLR 271
COSTS	Plaintiff failed to provide all evidence in timely manner- awarded against defendant on a three- quarters basis	Tui International Ltd v Nasilai (SC)	2005 TLR 270
COSTS	Preliminary hearing – Magistrate has no power to award costs – statutory (*expressio unias*) or inherent	Pohiva v Magistrates' court	2015 TLR 275
COSTS	reasonably necessary for attainment of justice	Kingdom of Tonga & ors v Allianz Australia Insurance Ltd (SC)	2006 TLR 69
COSTS	Solicitor acting for himself – taxation	Edwards v. Kingdom of Tonga	1994 TLR 62
COSTS	Solicitor and client basis – exceptional case	Fonua v MBf Bank Ltd (CA)	2000 TLR 319
COSTS	Solicitor and client basis claimed – have to be exceptional case	South Pac Builders Supplies Ltd v Naidu (SC)	2001 TLR 33
COSTS	Taxation – principles	Sanft & Sons v. Johnson	1991 TLR 1
COSTS	Taxation of costs – defendant was allowed costs of taxation process	Polynesian Airlines v Kingdom of Tonga (SC)	2000 TLR 145
COSTS	taxation of costs – overseas counsel – not necessary	Tupou v Saulala & ors (SC)	2004 TLR 166
COSTS	Taxation of costs – scale charges may be exceeded	Polynesian Airlines v Kingdom of Tonga (SC)	2000 TLR 145
COSTS	Taxation of costs- overseas lawyers- not registered in Tonga- costs not recoverable	Gough Finance Ltd v Westpac bank of Tonga (SC) Gough Finance Lts v Westpac bank of Tonga	2005 TLR 302 2005 TLR 390
COSTS	Whether defendant received portion of loan – plaintiff established its claim	Tonga Development Bank v Helu (SC)	2001 TLR 325

CRIMINAL LAW

CRIMINAL LAW	"wifully" discussed	R v Wight (SC)	2004 TLR 297
CRIMINAL LAW	16 year old accused – no parent at interview	R v Vaioleti (SC)	2006 TLR 217

CRIMINAL LAW	Abetment – defence of duress Abetment of armed robbery – knew offence was being committed	R v Makahununiu (SC) R v Tukia (SC	2001 TLR 127 2001 TLR 22
CRIMINAL LAW	Abetment of theft - all elements proved beyond reasonable doubt	R v Maile (SC)	2009 TLR 35
CRIMINAL LAW	abetting abduction – accused's belief of age irrelevant	R v Huni & ors (SC)	2002 TLR 366
CRIMINAL LAW	Abetting theft – theft not over even though complete	R v Funaki	1999 TLR 256
CRIMINAL LAW	alibi evidence brought – not sufficient	R v Tongia (SC)	2004 TLR 359
CRIMINAL LAW	Alibi evidence brought- not sufficient- accused convicted	R v Tongia (SC)	2005 TLR 478
CRIMINAL LAW	Appeal - police assault and unlawful imprisonment - exemplary damages claimed	Hurrell v Naufahu & ors (CA)	2009 TLR 319
CRIMINAL LAW	Appeal against conviction - no evidence of one element of offence - crown conceded	Sa'ili v Police (SC)	2009 TLR 496
CRIMINAL LAW	appeal against conviction – summons process not complied with	Tau'atevalu v Police (SC)	2006 TLR 155
CRIMINAL LAW	Appeal against conviction and sentence	Manakofua & ors v Police (SC)	2009 TLR 285
CRIMINAL LAW	appeal against conviction and sentence	Polutele v R (CA) Vea v R (CA)	2004 TLR 190 2004 TLR 177
CRIMINAL LAW	appeal against conviction and sentence – no grounds made out	Li v R (CA)	2006 TLR 270
CRIMINAL LAW	appeal against conviction and sentence – no grounds made out	Tu'ivai v R (CA)	2006 TLR 264
CRIMINAL LAW	Appeal against conviction and sentence- conviction stood- sentence was suspended	Tafea & ors v R (CA)	2010 TLR 166
CRIMINAL LAW	Appeal against conviction and sentence- imprisonment excessive therefore quashed	Moala v Police (SC)	2003 TLR 304
CRIMINAL LAW	Appeal against conviction for perjury- charge not proved beyond reasonable doubt	Seluini v R (CA)	2010 TLR 114
CRIMINAL LAW	Appeal against conviction- offence identified sufficiently in indictment	Shao Jun Sun v R (CA)	2010 TLR 106
CRIMINAL LAW	Appeal against findings as to witness credibility – Court accepted Supreme Court findings	Pacific Royale Hotel v Vakalahi & ors (CA)	2007 TLR 46

CRIMINAL LAW	Appeal from Magistrate – English principles – Charge against an Indian	Police v. S. Vaminrav	TLR Vol 1 (1908-1959) 72
CRIMINAL LAW	appeal that guilty plea was a nullity	Malafu v R (CA)	2002 TLR 244
CRIMINAL LAW	appeals against sentence	Mafi & ors v R (CA)	2004 TLR 200
CRIMINAL LAW	armed robbery – Appeal against sentence –leave to appeal not granted	Fifita v R (CA)	2000 TLR 289
CRIMINAL LAW	Arms and Ammunition - Importation – what constitutes importation of arms Concealment of arms – what constitutes concealment of arms	Police Department v. Trumer	1981-1988 TLR 43
CRIMINAL LAW	Assault – proof of participation	R v Angitoa (SC)	2000 TLR 352
CRIMINAL LAW	Assault charge- more than mere words- conviction	R v Baldi (SC)	2003 TLR 56
CRIMINAL LAW	Assault- defence of self defence- not accepted	R v ‘Ofa (SC)	2003 TLR 78
CRIMINAL LAW	Assault- identification issues- only one conviction	R v Patolo & ors (SC)	2003 TLR 165
CRIMINAL LAW	assault with intent to rob	R v Vete & ors (SC)	2004 TLR 263
CRIMINAL LAW	attempted carnal knowledge of girl under 12 and indecent assault	R v Li (SC)	2006 TLR 92
CRIMINAL LAW	attempted rape – elements proved to criminal standard	R v Mafi (SC)	2006 TLR 225
CRIMINAL LAW	attempted rape and indecent assault – proof required	R v Mauala (SC)	2002 TLR 279
CRIMINAL LAW	Attempted robbery and grievous bodily harm - appeal against conviction and sentence - convict stands - no probation report - sentence to be reconsidered by Supreme Court	Langi v R (CA)	2009 TLR 338
CRIMINAL LAW	Autrefois convict - conditions	Pohiva v Lasike	1997 TLR 246
CRIMINAL LAW	Bail – conditions – sureties – forfeiture - obligations	R v Moala	1997 TLR 132
CRIMINAL LAW	behavioural offences – overcharging - Appeal – sentence –delay	Tavake v Police	1997 TLR 164
CRIMINAL LAW	Binding over – power to order; Judge must give reasons before making coercive orders	R v Unga	2011 TLR 38
CRIMINAL LAW	Bodily harm – duress or coercion – self defence	R v Talivakaola	1997 TLR 14

CRIMINAL LAW	Bodily harm - sentencing	R v Talivakaola	1997 TLR 14
CRIMINAL LAW	Bodily harm charge - issue as to identification	R v Piutau (SC)	2009 TLR 54
CRIMINAL LAW	bodily harm charge – wound needed – discharged	R v Aumua (SC)	2005 TLR 214
CRIMINAL LAW	bribery of government servant – intention of accused essential ingredient	R v Tu'ivai (SC)	2006 TLR 310
CRIMINAL LAW	carnal knowledge of girl under 12 – no proof of penetration	R v Li (SC)	2006 TLR 92
CRIMINAL LAW	causing bodily harm – self defence pleaded – excessive retaliation	R v Makafilia (SC)	2005 TLR 448
CRIMINAL LAW	Causing bodily harm- defence of property- defence not accepted	R v Tau'atevalu (SC)	2003 TLR 38
CRIMINAL LAW	Causing grievous harm – defence of another	R v. Misa	1991 TLR 69
CRIMINAL LAW	Causing grievous harm – mens rea-states of knowledge & mind	Onedera v. R	1991 TLR 28
CRIMINAL LAW	charge of abetment – not proved – all principals – not guilty	R v Funaki & ors (SC)	2005 TLR 239
CRIMINAL LAW	Charge of assault and bodily harm- self-defence rejected-convicted	R v Di (SC)	2010 TLR 13
CRIMINAL LAW	Common law defence to assault – available in Tonga	Giles v Police	1999 TLR 102
CRIMINAL LAW	confession – no need to be corroborated	R v Napa'a & ors (SC)	2004 TLR 19
CRIMINAL LAW	Confession – statement - admissibility	R v Fakalata	1997 TLR 68
CRIMINAL LAW	Confession sufficient evidence – rape	R v. Fa'aoso	1996 TLR 36
CRIMINAL LAW	Conspiracy – Abetment – Cap.10 s.14	F. Atelea v. A. Mafi & Ors	TLR Vol 1 (1908-1959) 61
CRIMINAL LAW	Contempt of court – real risk of undermining public confidence in the administration of justice – scandalizing the court	Attorney General v Namoa (SC) Namoa v Attorney General (CA)	2000 TLR 59 2000 TLR 70
CRIMINAL LAW	crime not in existence when offence committed	Tamanika v R (CA)	2002 TLR 174
CRIMINAL LAW	Criminal defamation – absolute privilege – group petition to the King	R v Simiki (SC)	2001 TLR 320

CRIMINAL LAW	Criminal Defamation - appeal against conviction - inadequate indictment	Saulala & ors v R (CA)	2004 TLR 225
CRIMINAL LAW	criminal defamation – appeal against conviction and sentence	Langi v Televave (SC)	2006 TLR 181
CRIMINAL LAW	Dances Act – Police – rank – proof – obstruction – lawful duties	Hopoi & Fusimalohi v Police	1997 TLR 221
CRIMINAL LAW	Dealing with another person for the supply of illicit drugs – elements of charge proved	R v Tupou (SC)	2007 TLR 97
CRIMINAL LAW	Defamation	R. v. Viliame Oleni	TLR Vol 1 (1908-1959) 15
CRIMINAL LAW	Defamation of the King - acquittal	R v Pohiva	1998 TLR 27
CRIMINAL LAW	Defamation of the King – conviction upheld	Pulu v R (CA)	2000 TLR 293
CRIMINAL LAW	defence had no burden to prove anything	'Ilavalu v Police (SC)	2002 TLR 304
CRIMINAL LAW	Defences – bodily harm – duress, coercion, self-defence - onus	R v Talivakaola	1997 TLR 14
CRIMINAL LAW	Defences – murder – diminished responsibility	R v Puli'uvea	1997 TLR 265
CRIMINAL LAW	discharge of firearm – no intention to intimidate	R v Wight (SC)	2004 TLR 297
CRIMINAL LAW	Discharge without conviction – principles to be considered	Police v Tapueluelu	2015 TLR 221
CRIMINAL LAW	display of tobacco advertisement – Penal Act - not all elements proved – acquitted	R v Tsay & ors (SC)	2005 TLR 413
CRIMINAL LAW	Driving taxi without correct licence	R v Naupoto	1998 TLR 1
CRIMINAL LAW	Drug offences – principles of sentencing	Anders v. Police Department	TLR 1974-1980 60
CRIMINAL LAW	Drug offences – sentencing – principles – on appeal – double jeopardy	Spoutz v Police Spoutz v Police (No. 2)	1997 TLR 190 1997 TLR 143
CRIMINAL LAW	drug possession and cultivation charges – question as to admissibility of confession – admissible and convicted	R v Mafi (SC)	2005 TLR 47
CRIMINAL LAW	Embezzlement – sentencing	Wall v R (CA)	2001 TLR 238
CRIMINAL LAW	Evidence – disclosure pretrial	R v Fungavaka & Tapu	1997 TLR 229
CRIMINAL LAW	evidence – uncorroborated evidence of complainant	R v Talanoa (SC)	2006 TLR 108

CRIMINAL LAW	Extradition application of Bail Act – principles	R. v. Geesteranus	1992 TLR 32
CRIMINAL LAW	false pretences – operating on mind of deceived – not established	R v Makahununiu (SC)	2005 TLR 41
CRIMINAL LAW	Firearms offences - question as to identification of accused	R v ‘Iongi & ors (SC)	2009 TLR 414
CRIMINAL LAW	Fish - Offence of fishing without licence- not proved	R v Kim & ors (SC)	2003 TLR 342
CRIMINAL LAW	Fish - possession of lobsters carrying eggs	R v Lata & ors (SC)	2006 TLR 143
CRIMINAL LAW	fish processing without licence- Appeal against sentence- six months imprisonment- appeal allowed and sentence suspended	Shao Jun Dun v R (CA)	2010 TLR 106
CRIMINAL LAW	Fish- Undersized lobster – not required to prove they were alive – accused had control of lobsters and knew they were undersized - convicted	R v Lata (SC)	2007 TLR 52
CRIMINAL LAW	Forgery – falsification of accounts – guilty plea in trial - sentence	R v Fonokalafi	1997 TLR 138
CRIMINAL LAW	Forgery – needed original documents for proof	R v Manu (SC)	2000 TLR 386
CRIMINAL LAW	fraud and forgery – appeal against conviction on Judge's summing up – appeal dismissed	Sefo & ors v R (CA)	2005 TLR 335
CRIMINAL LAW	Fraudulent conversion – fraudulent equal to dishonesty	R v Nusi (SC)	2008 TLR 154
CRIMINAL LAW	Fraudulent conversion as a Government servant – abuse of trust	R v Pongi (SC)	2000 TLR 366
CRIMINAL LAW	Fraudulent conversion of property and interference with course of justice - appeal against sentence- originally no enquiry as to means of appellant	Pouvalu v R (CA)	2009 TLR 364
CRIMINAL LAW	Grievous bodily harm – appeal against conviction – self-defence pleaded	Azuelo v R (CA)	2009 TLR 149
CRIMINAL LAW	grievous bodily harm – defence of insanity	R v Taufa (SC)	2004 TLR 337
CRIMINAL LAW	grievous bodily harm – defence of insanity - failed	R v Taufa (SC)	2005 TLR 456
CRIMINAL LAW	grievous bodily harm – meaning of "severe wound" – acquitted	R v Fanua & ors (SC)	2005 TLR 264
CRIMINAL LAW	Grievous bodily harm – self defence	R v Vea	1998 TLR 63

CRIMINAL LAW	grievous bodily harm – self defence – acquitted	R v Fanua & ors (SC)	2005 TLR 264
CRIMINAL LAW	Grievous bodily harm- defence of self- defence rejected	R v Azuelo (SC)	2009 TLR 140
CRIMINAL LAW	Grievous bodily harm- issue as whether harm was grievous	R v Piutau (SC)	2009 TLR 54
CRIMINAL LAW	Grievous harm – meaning	R v. Fa'aoso	1996 TLR 36
CRIMINAL LAW	Grievous Harm - Mitigating factors	Vea v R	1998 TLR 136
CRIMINAL LAW	Grievous harm – requisite intent	Vea v R	1998 TLR 136
CRIMINAL LAW	Growing and possessing hemp- definition of "growing" and "possessing"	R v Bowe (SC)	2003 TLR 24
CRIMINAL LAW	Hearing charge within 24 hours of service – Plea of guilty – Proceedings squashed	Re. F. Fotu & Ors	TLR Vol 1 (1908-1959) 98
CRIMINAL LAW	housebreaking – confession admissible	R v Valu (SC)	2004 TLR 257
CRIMINAL LAW	housebreaking and assault – trespass not proved	R v Taufalele & ors (SC)	2004 TLR 376
CRIMINAL LAW	housebreaking and assault – trespass not proved – acquitted on housebreaking charge	R v Taufalele & ors (SC)	2005 TLR 495
CRIMINAL LAW	Housebreaking charge – all elements proved	R v Lolohea (SC)	2008 TLR 1
CRIMINAL LAW	Housebreaking, theft, and receiving – counts 2-6 proved	R v Guttenbeil (SC)	2009 TLR 123
CRIMINAL LAW	housebreaking, theft, and receiving – some guilty findings	R v Pohahau & ors (SC)	2005 TLR 363
CRIMINAL LAW	Immigration – passports – prosecution – forms & declarations	Police v Moala	1997 TLR 238
CRIMINAL LAW	import cocaine increase – Appeal – sentence –double jeopardy	Spoutz v Police Spoutz v Police (No. 2)	1997 TLR 143 1997 TLR 148
CRIMINAL LAW	Importation and possession of illicit drugs – all elements proved - guilty	R v Puloka (SC)	2007 TLR 175
CRIMINAL LAW	importing hemp – facilitated importation into Tonga – guilty	R v Malu (SC)	2005 TLR 226
CRIMINAL LAW	Imprisonment for property offences – where appropriate	Mo'unga v R	1998 TLR 154
CRIMINAL LAW	Incest – First cousins – Sentence	R. v. V. Sisi	TLR Vol 1 (1908-1959) 51

CRIMINAL LAW	Incest – no corroboration or credible witnesses	R v Mo'unga (SC)	2001 TLR 1
CRIMINAL LAW	Incompetence of counsel	Kula v. R	1996 TLR 25
CRIMINAL LAW	Indecent assault – Crown to prove indecent intention – failed to so prove	R v Filise (SC)	2001 TLR 312
CRIMINAL LAW	Indecent assault – element proved - convicted	R v Ta'ufo'ou (SC)	2007 TLR 90
CRIMINAL LAW	indecent assault – evaluation of evidence – convicted	R v Kapeli (SC)	2002 TLR 105
CRIMINAL LAW	indecent assault – mentally retarded complainant	R v Falemaka (SC)	2006 TLR 370
CRIMINAL LAW	Indecent assault – needs only basic intent – intoxication no defence	R v Toma (SC)	2000 TLR 400
CRIMINAL LAW	indecent assault and abduction of girl under 14 – accused's belief of age irrelevant	R v Huni & ors (SC)	2002 TLR 366
CRIMINAL LAW	indecent assault and rape charges of	R v Fainga'anuku (SC)	2006 TLR 339
CRIMINAL LAW	Indecent assault- lack of acknowledge of age of complaint- acquitted	R v Mafua (SC)	2003 TLR 61
CRIMINAL LAW	Indecent assault of daughter- doubts of veracity of allegations	R v Vaha'i (SC)	2009 TLR 400
CRIMINAL LAW	Indecent assault on 3 year old – early complaint	R v Kakala (SC)	2008 TLR 127
CRIMINAL LAW	Indecent assault on girl under 16 – accused reckless or indifferent as to age – found guilty	R v Vakaloa (SC)	2007 TLR 187
CRIMINAL LAW	Inferences – proper basis for drawing	Onedera v. R.	1991 TLR 28
CRIMINAL LAW	Interference with course of justice – Cap. 10. s. 64 – Conduct of Counsel	Re – v. Koloamatangi	TLR Vol 1 (1908-1959) 113
CRIMINAL LAW	Joint enterprise – common intention gauged from conduct	R v Fakatava (SC)	2001 TLR 76
CRIMINAL LAW	Joint Enterprise; preliminary enquiry issues for Magistrates; procedural amendments take effect immediately	R v Faletau, Tu'Ivai, Vakalahi and ors.	Supreme Court AM 8/2013; 5 July 2013
CRIMINAL LAW	Judge alone – evidence	R v. Kula	1996 TLR 20
CRIMINAL LAW	Magistrates Court – exclusion of defendants - procedure	Sikuea & 'Akau'ola v Police	1997 TLR 190

CRIMINAL LAW	manslaughter – cause of death – guilty	R v Vi (SC)	2005 TLR 278
CRIMINAL LAW	Manslaughter – did assault lead to death?	R v Fifita (SC)	2004 TLR 311
CRIMINAL LAW	Manslaughter – negligence – earlier acquittal	Fisi'inaua v. R	1995 TLR 62
CRIMINAL LAW	manslaughter- Appeal against sentence- mitigating factors listed including restitution- appeal allowed- sentence reduces with part suspended	Kofutu'a v R (CA)	2010 TLR 120
CRIMINAL LAW	Manslaughter by negligence	R v. Kitekel'aho & Tonga	1990 TLR 201
CRIMINAL LAW	Manslaughter by negligence – Crown needed to prove extra element of turpitude – acquitted but found guilty of careless driving	R v Fetu'u (SC)	2007 TLR 7
CRIMINAL LAW	Manslaughter by negligence – driving while intoxicated	R v Naupoto	1998 TLR 1
CRIMINAL LAW	Manslaughter by negligence – duty of care must exist	Kitekel'aho & Tonga v. R	1991 TLR 46
CRIMINAL LAW	manslaughter by negligence – duty of care to road users – guilty	R v Holani (SC)	2005 TLR 18
CRIMINAL LAW	Manslaughter by negligence - elements	R v Naupoto	1997 TLR 265
CRIMINAL LAW	Manslaughter by negligence – not sufficient evidence	R v Finefeuiaki (SC)	2008 TLR 210
CRIMINAL LAW	Manslaughter by negligence – not guilty	R v 'Ulupano (SC)	2007 TLR 191
CRIMINAL LAW	Manslaughter by negligence – sentence	Hala v. R.	1992 TLR 7
CRIMINAL LAW	Manslaughter by negligence – suspended sentence was inadequate	R v Tofavaha (CA)	2000 TLR 316
CRIMINAL LAW	Misrepresentation and fraud Independent evidence to	Tuaimei'uta v Prema (CA)	2001 TLR 215
CRIMINAL LAW	Motor manslaughter – sentence - disqualification	R v Taufa	1997 TLR 7
CRIMINAL LAW	Murder – manslaughter – diminished responsibility	R v Puli'uvea	1997 TLR 40
CRIMINAL LAW	murder – provocation – murder proved	R v 'Ake (SC)	2005 TLR 424
CRIMINAL LAW	negligence led to death – manslaughter	R v Lutu (SC)	2002 TLR 300
CRIMINAL LAW	No case to answer	Practice Note 1/92	1992 TLR 1
CRIMINAL LAW	obstruction of police officer	Funaki v Police (SC)	2006 TLR 378

CRIMINAL LAW	Offences against the Drugs and Poisons Act – appeal against conviction dismissed	Tuita v R	1999 TLR 152
CRIMINAL LAW	Perjury – insufficient evidence	R v Tauelangi (SC)	2001 TLR 266
CRIMINAL LAW	Perjury – sentence where guilty plea	R v Uluilakepa	1999 TLR 166
CRIMINAL LAW	Plea "Guilty" – Finding "Not Guilty"	Police v. Ahokava	TLR Vol 1 (1908-1959) 16
CRIMINAL LAW	Plea of Autrefois convict – principles discussed – Irregularity in first trial	Police v. T. Kulanoa	TLR Vol 1 (1908-1959) 104
CRIMINAL LAW	Police – obstruction – lawful duties – Dances Act – rank - proof	Hopoi & Fusimalohi v Police	1997 TLR 221
CRIMINAL LAW	Possession of ammunition- meaning of possession	R v Singh (SC)	2003 TLR 13
CRIMINAL LAW	Possession of ammunition strict liability offence- no knowledge of possession	R v Fonohema (SC)	2003 TLR 337
CRIMINAL LAW	Possession of arms and ammunition- no knowledge of presence- no possession	R v Yang Yu Zhen (SC)	2009 TLR 481
CRIMINAL LAW	possession of arms without a licence	R v Vete & ors (SC)	2004 TLR 263
CRIMINAL LAW	Possession of cannabis – three accused – drugs found at their home – all found guilty	R v Mataele & ors (SC)	2007 TLR 219
CRIMINAL LAW	Possession of cannabis – two of the accused were guilty – one was found not guilty on grounds he did not have sufficient control	R v Tu'itavake & ors (SC)	2007 TLR 180
CRIMINAL LAW	possession of drugs – Crown did not prove offence	R v Motuliki (SC)	2002 TLR 124
CRIMINAL LAW	Possession of drugs – guilty plea – two years imprisonment	R v Talia'uli (SC)	2007 TLR 226
CRIMINAL LAW	possession of drugs – not proved beyond reasonable doubt – not guilty	R v Tau & ors (SC)	2005 TLR 418
CRIMINAL LAW	possession of drugs – not proved to be same substance as was taken from house – acquitted	R v Pohahau (SC)	2005 TLR 12
CRIMINAL LAW	Possession of drugs – strong circumstantial evidence - guilty	R v Katoa & ors (SC)	2007 TLR 270
CRIMINAL LAW	Possession of drugs- elements of offences	R v Pohahau (SC)	2003 TLR 270
CRIMINAL LAW	Possession of firearm – not proved to be firearm	R v Tupou (SC)	2007 TLR 97

CRIMINAL LAW	possession of hemp – proved by Crown	R v Fifita & ors (SC) R v Ta'ufo'ou & ors (SC) R v Vaka'uta & ors (SC)	2004 TLR 78 2004 TLR 236 2004 TLR 37
CRIMINAL LAW	Possession of pistols and ammunition - sentencing	R v Talia'uli	1997 TLR 7
CRIMINAL LAW	Possession of pistols and ammunition - sentencing	R v Talia'uli	1997 TLR 7
CRIMINAL LAW	Practice and procedure – committals form Magistrates Courts	Practice Direction No. 1/97	1997 TLR 68
CRIMINAL LAW	Practice and procedure – disclosure pretrial by prosecution	R v Fungavaka & Tapu	1997 TLR 229
CRIMINAL LAW	private prosecution false representation- Default in loan repayments- appeal dismissed	Funaki Enterprises v Kakala (SC)	2010 TLR 197
CRIMINAL LAW	Proceedings on behalf of lunatic – Cap. 10 ss. 93, 175 – Who may take proceedings – Person aggrieved	M. Mateialona v. Palu	TLR Vol 1 (1908-1959) 41
CRIMINAL LAW	property offences- Appeal against sentence- sentence reduced	Kusitafu v R (CA)	2010 TLR 111
CRIMINAL LAW	Provocation – bodily harm	R. v. Kailea & Kailea	1992 TLR 24
CRIMINAL LAW	Provocation, high degree affects sentence	R v Nisa	2015 TLR 245
CRIMINAL LAW	question of identity – Court had no doubt	R v Valu (SC)	2005 TLR 274
CRIMINAL LAW	Question whether mens rea was essential ingredient – court held that it was not – accused convicted	R v Taungahihifo (SC)	2007 TLR 247
CRIMINAL LAW	Rape – Abduction – Abetment – Principles in the first degree	Reg. v. Taufa Hema & Ors	TLR Vol 1 (1908-1959) 96
CRIMINAL LAW	Rape - complainant not give evidence – confession	R v. Fa'aoso	1996 TLR 36
CRIMINAL LAW	Rape – conflicting evidence – complainant lied - acquitted	R v Tau'aika (SC)	2000 TLR 423
CRIMINAL LAW	Rape – Crown should have produced all evidence – doubt as to consent – accused acquitted	R v Tu'ivailala (SC)	2007 TLR 267
CRIMINAL LAW	rape — issue of consent	R v Fonua (SC)	2002 TLR 4
CRIMINAL LAW	Rape – must prove lack of consent beyond reasonable doubt	R v Sole (SC)	2001 TLR 248

CRIMINAL LAW	rape – not proved but convicted of indecent assault	R v Talanoa (SC)	2002 TLR 312
CRIMINAL LAW	Rape – recent complaint – corroboration	R v. Kula	1996 TLR 20
CRIMINAL LAW	Rape – sleeping complainant - sentence	R v Holani	1997 TLR 11
CRIMINAL LAW	Rape and indecent assault – issue of identification – Crown obliged to call all relevant witnesses – accused convicted	R v Fungavai (SC)	2007 TLR 163
CRIMINAL LAW	rape and indecent assault charges – Appeal against convictions on appeal dismissed	Teisina v R	1999 TLR 145
CRIMINAL LAW	rape charge – all elements not proved – not guilty	R v Lasike (SC)	2006 TLR 191
CRIMINAL LAW	Rape of 12 year old – defence of alibi and delayed complaint – found guilty	R v Vilingia (SC)	2007 TLR 260
CRIMINAL LAW	Rape of feebleminded complainant – no psychiatric or medical evidence- not guilty	R v Tafuna & ors (SC)	2007 TLR 209
CRIMINAL LAW	rape trial — complainant refused to give evidence	R v Fonua (SC)	2002 TLR 4
CRIMINAL LAW	rape, indecent assault and housebreaking – question of identification	R v Likio (SC)	2006 TLR 387
CRIMINAL LAW	Repeat offender- guilty plea- mother of three- cumulative sentences imposed	R v Kula (SC)	2009 TLR 394
CRIMINAL LAW	Robbery and abetment – acts of violence not directed to overcoming opposition to the taking - acquitted	R v Lokosuka (SC)	2007 TLR 1
CRIMINAL LAW	Robbery- appeal against conviction- evidence rejected without explanation- unsafe conviction – retrial ordered	Pisima'ake v R (CA)	2009 TLR 312
CRIMINAL LAW	Robbery- issue as to identity- defendant guilty	R v Nisifolo (SC)	2009 TLR 27
CRIMINAL LAW	Sedition - Criminal law - elements	R v Sikuea	1997 TLR 57
CRIMINAL LAW	Sedition - elements	R v Sikuea	1997 TLR 57
CRIMINAL LAW	self defence	R v Makafilia (SC) R v Vakalahi (SC)	2004 TLR 329 2004 TLR 103
CRIMINAL LAW	self defence – Crown proved accused not acting in self-defence	R v 'Osai (SC)	2006 TLR 169

CRIMINAL LAW	Self-defence – bodily harm – not reasonable reaction	R v Anau (SC)	2008 TLR 248
CRIMINAL LAW	Sentence – rape	Fa'aoso v. R	1996 TLR 42
CRIMINAL LAW	Sentence – whether sentencing provisions are retrospective	R v Fakauho (SC)	2000 TLR 50
CRIMINAL LAW	Sentence- sentencing cumulative for unrelated offences- replaced with concurrent	Hokafonu v R (CA)	2003 TLR 249
CRIMINAL LAW	Sentencing – principles – multiple offending	R v Tokai	1997 TLR 142
CRIMINAL LAW	Sentencing – suspended sentence – subsequent offending - youth	R v Heleta	1997 TLR 158
CRIMINAL LAW	Sentencing for commercial growing of marijuana – sentence increased	Lolohea v Police	1999 TLR 212
CRIMINAL LAW	sexual assault of child – evidence of child	R v Hopoate (SC)	2002 TLR 81
CRIMINAL LAW	Standard of Proof – how to direct jury	Onedera v. R.	1991 TLR 28
CRIMINAL LAW	Strict liability – onus of proof	Mafi v. Police	1995 TLR 177
CRIMINAL LAW	Summons – Variance of offence charged and evidence – Amendment of Summons – Withdrawal of charge	Police v. S. Logani	TLR Vol 1 (1908-1959) 55
CRIMINAL LAW	Summons containing more than one charge – Invalid	Police v. S. Fifita & Ors	TLR Vol 1 (1908-1959) 95
CRIMINAL LAW	Supply of cocaine- no provision against it	R v Fatani (SC)	2003 TLR 278
CRIMINAL LAW	Supply of drugs- interpretation of supply	R v Lauteau (SC)	2003 TLR 18
CRIMINAL LAW	Suspended sentence was inadequate – sexual offence	R v Motulalo (CA)	2000 TLR 311
CRIMINAL LAW	Taxation	Practice Note 2/92	1992 TLR 2
CRIMINAL LAW	theft	R v Koniseti (SC) R v Napa'a & ors (SC)	2004 TLR 32 2004 TLR 19
CRIMINAL LAW	theft – appeal against acquittal for - magistrate's decision not interfered with	R v Sakopo (SC)	2002 TLR 259
CRIMINAL LAW	theft – dishonest intent must be at time of taking – acquitted	R v Makahununiu (SC)	2005 TLR 41
CRIMINAL LAW	Theft - submission of no case to answer – no evidence	R v Latai (SC)	2002 TLR 47

CRIMINAL LAW	Theft case stopped – could court convict of receiving on same evidence?	R v Kaufusi	1999 TLR 15
CRIMINAL LAW	theft charge – continuous offence – guilty	R v Funaki & ors (SC)	2005 TLR 239
CRIMINAL LAW	Traffic - Driving under the influence- cancelled or suspended licence	Vaea v Police (SC)	2003 TLR 74
CRIMINAL LAW	Traffic - Motor manslaughter - disqualification	R v Taufa	1997 TLR 14
CRIMINAL LAW	Trial – delays - adjournments	R v Filimoehala	1997 TLR 140
CRIMINAL LAW	Unlawful entry- all elements made out- intoxication defence rejected- convicted	R v Manu (SC)	2010 TLR 74
CRIMINAL LAW	unlawful imprisonment and assault	Fa'aoso v Paongo & ors (SC)	2006 TLR 329
CRIMINAL LAW	Unlawfully killing a pig – defence of protection of property	R v. Fakatava	1989 TLR 73
CRIMINAL LAW	whipping sentence - discussion - Appeal against sentence- excessive prison sentences imposed- reduced- suspended part because of youth on	Fangupo v R; Faaoa v R (CA)	2010 TLR 124

CRIMINAL PROCEDURE

CRIMINAL PROCEDURE	Absolute liability offence	R v Kim & ors (SC)	2003 TLR 342
CRIMINAL PROCEDURE	Admissibility of statements	R v Angitoa (SC)	2000 TLR 352
CRIMINAL PROCEDURE	Admissibility of statements – improper advice of accused's rights from police	R v Matangi (SC)	2000 TLR 372
CRIMINAL PROCEDURE	Admissibility of written statement – no obligation on police to inform of right to consult a lawyer	Teisina v R	1999 TLR 145
CRIMINAL PROCEDURE	admission of confession – not voluntarily obtained – excluded	R v Lolohea (SC)	2004 TLR 50
CRIMINAL PROCEDURE	Appeal after guilty plea - dismissed	Manu v R	1998 TLR 104
CRIMINAL PROCEDURE	Appeal against order allowing amendment of indictment	Pohiva & ors v R (CA)	2008 TLR 266
CRIMINAL PROCEDURE	appeal from Court of Inquiry – Right of - no right	Tapueluelu v Police (SC)	2000 TLR 383

CRIMINAL PROCEDURE	application for bail pending hearing of appeal – had to have reasonable prospect of success	Sefo & ors v R (SC)	2004 TLR 366
CRIMINAL PROCEDURE	application for bail pending hearing of appeal – had to have reasonable prospect of success	Sefo & ors v R (SC)	2005 TLR 485
CRIMINAL PROCEDURE	Application for committal – no application to charge that crimes were committed – struck out	Finau (Deceased), Re Sela Moimoi (SC)	2000 TLR 13
CRIMINAL PROCEDURE	Arrest without warrant – habeas corpus application	Fifita v Fakafanua	1998 TLR 127
CRIMINAL PROCEDURE	Bail - Application for bail pending appeal - only where reasonable prospect of appeal success - application refused	Kaho v R (SC) Salt v R (SC)	2009 TLR 466 2009 TLR 515
CRIMINAL PROCEDURE	Bail - Application to be released until appeal determined – could not use jurors' affidavits as evidence – new application needed	Paea v R (SC)	2001 TLR 14
CRIMINAL PROCEDURE	Bail - Conditions – sureties – obligations - forfeiture	R v Moala	1997 TLR 132
CRIMINAL PROCEDURE	Bail - Extradition order – Magistrates Courts' – Supreme Court	Lavulo v. Fifita & Kingdom of Tonga (No.2)	1995 TLR 214
CRIMINAL PROCEDURE	Bail - Permission sought to vary bail condition- sought to leave country- powerful incentive to abscond- no variance granted	Jonesse v R (SC)	2010 TLR 19
CRIMINAL PROCEDURE	Bail – requirement to release	Taufa v R	1998 TLR 236
CRIMINAL PROCEDURE	bail - Right to – surrender of passport – factors to take into account – bail granted	Cater v R	1999 TLR 67
CRIMINAL PROCEDURE	Bail - Should be good reason for depriving person of liberty – bail should have been granted	R v 'Ahokovi	1999 TLR 239
CRIMINAL PROCEDURE	Bail when murder charge – discretion of the Court	R v Fotu	1999 TLR 42
CRIMINAL PROCEDURE	Change of plea – not allowed	Vaiangina v Police (SC)	2000 TLR 360
CRIMINAL PROCEDURE	children appellants – treated the same as adults	Tone & ors v Police (SC)	2004 TLR 144
CRIMINAL PROCEDURE	Clerk not required to physically write out summons	Taufa v Police Department (CA)	2001 TLR 202
CRIMINAL PROCEDURE	Confession of guilt – admissibility – principle applicable	R v. Pallate	1989 TLR 109

CRIMINAL PROCEDURE	Court not satisfied of evidence – Court directed verdict of acquittal	R v ‘Ulupano (SC)	2007 TLR 191
CRIMINAL PROCEDURE	Different between English and Tongan text of Legislation	Fononga v Police (SC)	2003 TLR 298
CRIMINAL PROCEDURE	discovery not available in criminal case	Vete v R (SC)	2002 TLR 308
CRIMINAL PROCEDURE	Duplicity of charges- summons was bad for duplicity	Mataele v Police (SC)	2003 TLR 44
CRIMINAL PROCEDURE	Duplicity rule (no one count in indictment should charge 2 or more separate offences) and exceptions (continuous taking and general deficiency) discussed	Kaufusi v R	2014 TLR 252
CRIMINAL PROCEDURE	Entitlement to jury trial	Police v Tapueluelu (SC)	2001 TLR 95
CRIMINAL PROCEDURE	Extradition, double criminality, how tested	R v Pedras	2016 TLR 396
CRIMINAL PROCEDURE	Extradition, 26 years since murder in Aus; held seriousness of offence outweighed time and hardship; no prejudice either	R v Koloamatangi	2016 TLR 392
CRIMINAL PROCEDURE	Fraud - Burden of proof – standard	Fakaanga v. Mataele & Min. of Lands	1995 TLR 4
CRIMINAL PROCEDURE	fraud not pleaded as defence – justice required court to recognise it	Fa'aoa & ors v Tonga Development Bank (SC)	2002 TLR 317
CRIMINAL PROCEDURE	Fresh evidence available – retrial ordered	Tukuafu v Police (SC)	2000 TLR 404
CRIMINAL PROCEDURE	Guilty plea to the lesser offence charged – Crown did not have to accept that – trial to proceed on more serious charge	R v ‘Ahotau (SC)	2007 TLR 144
CRIMINAL PROCEDURE	Habeas Corpus - Court – power of – privilege of Legislative Assembly - contempt	Minister of Police v Moala, ‘Akau’ola, Pohiva	1997 TLR 209
CRIMINAL PROCEDURE	Habeas Corpus - Parliament – closure – due process	Moala & ors v. Min. of Police (No.2, 3)	1996 TLR 207, 211
CRIMINAL PROCEDURE	Habeas Corpus - Police powers of arrest and questioning	Re Fakafanua	1998 TLR 57
CRIMINAL PROCEDURE	Habeas Corpus - Summons – meaning – constitution – contempt of Parliament	Moala & ors v. Min. of Police (No.1)	1996 TLR 202
CRIMINAL PROCEDURE	Immigration - Arrival – declaration forms – prosecution - proof	Police v Moala	1997 TLR 238
CRIMINAL PROCEDURE	inaccurate indictment – convicted of parts proved and stated in indictment	R v Tohifolau (SC)	2005 TLR 31

CRIMINAL PROCEDURE	indictment –alleged defect in indictment – no confusion or prejudice	R v Saafi (SC)	2004 TLR 242
CRIMINAL PROCEDURE	Indictment cites wrong provision; plus defective breath tester requires acquittal	Tuputupu v R	2014 TLR 65
CRIMINAL PROCEDURE	Indictment limited to five counts – onus on prosecutor to comply	R v Tangata'iloa (SC)	2001 TLR 44
CRIMINAL PROCEDURE	Indictment not bad for duplicity – single criminal enterprise	Misinale v R (CA)	2000 TLR 322
CRIMINAL PROCEDURE	Interview of suspect	R. v. Kitekei'aho & Tonga	1990 TLR 201
CRIMINAL PROCEDURE	Judges Rules – not applicable in Tonga	R. v. Vaiangina	1990 TLR 118
CRIMINAL PROCEDURE	JUDGES' RULES, Applicable in Tonga	R v. Pailate	1989 TLR 109
CRIMINAL PROCEDURE	Jurisdiction of Magistrate in indictable offence - sentencing	R v Veamatahau	1999 TLR 195
CRIMINAL PROCEDURE	jury heard prejudicial evidence – jury discharged	R v Amanoni & ors (SC)	2006 TLR 75
CRIMINAL PROCEDURE	Leave sought to add charges – Crown counsel should assess whether charges could be supported – leave granted	R v Pohiva & ors (SC)	2007 TLR 238
CRIMINAL PROCEDURE	Leave to appeal out of time – not granted	Misinale v R (CA)	2000 TLR 322
CRIMINAL PROCEDURE	Magistrate's finding of fact – appellate court only interfere in exceptional circumstances	Giles v Police	1999 TLR 102
CRIMINAL PROCEDURE	malicious prosecution Criminal charge – not as to civil action	Hamilton v. Tonga Water Board	1995 TLR 85
CRIMINAL PROCEDURE	Mental Health Inquiry into lawfulness of applicant's detention – detention not unlawful	Kama, Re Application by (SC)	2007 TLR 76
CRIMINAL PROCEDURE	Misdirection of jury- obtaining goods by false pretences-miscarriage of justice-conviction quashed	Kami v R (CA)	2009 TLR 370
CRIMINAL PROCEDURE	no case to answer – risk of unsafe verdict	R v Kupu (SC)	2002 TLR 255
CRIMINAL PROCEDURE	No case to answer submission – guiding observations made by court	R v Anau (SC)	2008 TLR 248
CRIMINAL PROCEDURE	No specific dates and months on summons – no prejudice to appellant	Taufa v Police Department (CA)	2001 TLR 202
CRIMINAL PROCEDURE	Non-appearance of defendant before Magistrate	Filipe v R	1998 TLR 232

CRIMINAL PROCEDURE	Reasons for refusing bail – bail should have been granted	Bourke v Police	1999 TLR 81
CRIMINAL PROCEDURE	Res Ipsa Loquitor - Requirements not met – respondent not responsible	Egan v Morris Hedstrom Tonga Ltd (CA)	1998 TLR 99
CRIMINAL PROCEDURE	Sentence – imprisonment should be used in default of payment rather than as substitute	Vaiangina v Police (SC)	2000 TLR 360
CRIMINAL PROCEDURE	Sentencing – Crown appeal against fine	R v Naidu (CA)	2001 TLR 229
CRIMINAL PROCEDURE	Sentencing – housebreaking & theft	'Eukaliti v. Police	1994 TLR 80
CRIMINAL PROCEDURE	settlement without consent – new trial ordered as to liability	Hausia v Fatongiatau & ors (CA)	2002 TLR 188
CRIMINAL PROCEDURE	Submission of no case to answer - based on credibility of witness	R v Kaufusi	1999 TLR 15
CRIMINAL PROCEDURE	Submission of no case to answer – appeal against rejection	Vakameitangake v R	1998 TLR 141
CRIMINAL PROCEDURE	Substitution of alternative offence- criteria established	R v Pohahau (SC)	2003 TLR 270
CRIMINAL PROCEDURE	Summary jurisdiction of Magistrate – sentence is nullity	Cocker v R	1998 TLR 240
CRIMINAL PROCEDURE	Summons should state offence concisely- conviction quashed	Fononga v Police (SC)	2003 TLR 298
CRIMINAL PROCEDURE	Youths - remanding of children in custody - custody not appropriate for young offenders.If young persons are remanded, ensure they arekept apart from other adults.	R-v-Tongotu'a & Ors	Unreported, Supreme Court of Tonga, CR 102-5/2012, 10/8/2012

DAMAGES

DAMAGES	Adultery – Magistrates Court - jurisdiction	Fua v Sifa	1997 TLR 136
DAMAGES	Appeal against quantum – appeal allowed and damages reduced	Kingdom of Tonga v Havea (CA)	2001 TLR 172
DAMAGES	Appeal against quantum awarded- unlawful punishment in prison- award varied	Kingdom of Tonga v Lolohea (CA)	2009 TLR 190
DAMAGES	Appeal against quantum- only allowed if radically wrong- appeal dismissed	Shoreline Power Limited v Vakasiuola (SC)	2003 TLR 157
DAMAGES	Appeals from assessments of damages - principles applicable	Kaufusi v. Lasa, Kepu, Minister of Police	1990 TLR 139
DAMAGES	Assault – amount awarded much less than amount claimed	Knab v Hoeller (SC)	2001 TLR 83

DAMAGES	Assault – attacked while housebreaking	Uhila v. Tatola & Others	1992 TLR 9
DAMAGES	Assault and false imprisonment – first plaintiff failed in claim – second plaintiff failed in false imprisonment claim and succeeded in claim of assault – provocation affected damages awarded	Latu & ors v Leone & ors (SC)	2007 TLR 196
DAMAGES	Assault and false imprisonment by the police – damages sought	Malafu v Hausia & ors (SC)	2008 TLR 136
DAMAGES	Assault by police – assessment	Fatongiatau v Hausia (SC) Fetu'u'aho v Vete (SC)	2001 TLR 252 2001 TLR 255
DAMAGES	assault by police officer – exemplary damages – affected by previous conviction of officer	Hopoate v Finau & ors (SC)	2002 TLR 119
DAMAGES	Assault by police officer – whether provocation should impact amount	Kolo v Leone & ors (CA)	2008 TLR 188
DAMAGES	Assault victim- provocation lowered award of exemplary damages	Fumera v Pahulu (SC)	2003 TLR 96
DAMAGES	Assessment - customary gifts to be taken into account	Kaufusi v. Lasa, Kepu, Minister of Police	1990 TLR 139
DAMAGES	Bailee – breach of duties	Li v. Katoa	1996 TLR 195
DAMAGES	Calculated based on effect on plaintiff - not his family	Taufa v Editor of Taimi 'O Tonga (SC)	2001 TLR 101
DAMAGES	Calculation for negligence – loss of use of van	Tukutau v Masoe (SC)	2001 TLR 116
DAMAGES	Conversion of goods – difficulties of assessment – means of	James v Bank of Tonga	1997 TLR 54
DAMAGES	Damage to water tank - found plaintiff had no property in tank - could not bring claim	Allison & ors v Tu'ipulotu (SC)	2009 TLR 224
DAMAGES	Damages at large – not limited to specific pecuniary loss	Havea v Kingdom of Tonga (SC)	2000 TLR 31
DAMAGES	Damages sought – police assault and unlawful imprisonment claim	Hurrell v Naufahu & ors (SC)	2008 TLR 282
DAMAGES	Defamation	Manu v. Haidas & Editor of Tonga Chronicle	1990 TLR 17
DAMAGES	Defamation – apology – award of	Hafoka v. Mafile'o	1994 TLR 103

DAMAGES	Economic loss – severe injuries	Coleman v. Kolo	1991 TLR 35
DAMAGES	Excessive claim- costs affected	To'ia v Leone & ors (SC)	2003 TLR 4
DAMAGES	Exemplary – failure of statutory duty – misfeasance – abuse of office	Schafer-Macdonald v Health Practitioners Reg. Council & Kingdom of Tonga Health Practitioners Reg. Council & Kingdom of Tonga v Schafer - Macdonald	1997 TLR 69 1997 TLR 101
DAMAGES	Exemplary – general – principles - awards	Manu & Kingdom of Tonga v Muller	1997 TLR 192
DAMAGES	Exemplary – police – assault	Muller v. Manu & ors	1996 TLR 73
DAMAGES	Exemplary damages - principles applicable	Kingdom of Tonga v. Mokofisi	1990 TLR 58
DAMAGES	Exemplary damages - whether appropriate	Tu'itupou v. Tonga Water Board	1990 TLR 99
DAMAGES	False imprisonment – damages sought – exemplary damages not sought	Tavake v Kingdom of Tonga (SC)	2008 TLR 304
DAMAGES	False imprisonment-considerations	Edwards v Pohiva (CA)	2003 TLR 231
DAMAGES	Formal proof after collision-claim properly made out and damages awarded	Toki & ors v Simiki (SC)	2009 TLR 119
DAMAGES	General damages - whether appropriate	Tu'itupou v. Tonga Water Board	1990 TLR 99
DAMAGES	Head injuries – nursing – loss earning capacity	Kilisimasi v. Malani & ors	1996 TLR 189
DAMAGES	Loss of bargain – proper amount to be allowed	Jin-Chuan v Li	1999 TLR 140
DAMAGES	Loss of profit claimed – needed proof	'Epenisa v Tonga Development Bank (SC)	2000 TLR 231
DAMAGES	Lost wages for unlawful suspension period- allowed	'Asitomani v Superintendent of Prison (SC)	2003 TLR 84
DAMAGES	mitigation of loss – plaintiff should have repaired earlier	Fischer v Fung Shing Development Co Ltd (SC)	2006 TLR 295
DAMAGES	No evidence to quantify – hearing set for later date	Talakai v 'Aipolo	1999 TLR 89
DAMAGES	no written breakdown evidence – Court assessed average for damages	Maile v Tonga Cooperative Federation Company & ors (SC)	2004 TLR 123

DAMAGES	Pecuniary loss caused by death of deceased	Lei v Tonga Electric Power Board	1998 TLR 8
DAMAGES	Proof – duty to mitigate	'Ahoia v. NZ Container Lines Ltd	1994 TLR 54
DAMAGES	Quantum – higher than appellate judges would have awarded – when set aside	Hsu & Hsu v. Latu	1991 TLR 25
DAMAGES	Special damages – distress	Tu'ivai v. Fifita & J.S.P. auto Trading Ltd.	1991 TLR 63
DAMAGES	tort of false imprisonment – assessed	Pohiva & ors v Kingdom of Tonga & ors (SC)	2002 TLR 333
DAMAGES	Trespass – assault – defamation	Bank of Tonga v. Peacock	1996 TLR 175
DAMAGES	Trespass by pigs – damages reduced where crop owner failed to fence	Toafa v Talisi (SC)	2000 TLR 53
DAMAGES	Unlawful assault and imprisonment by police officer – exemplary damages allowed	Lavaka v Ministry of Police (SC) Tonga v Ministry of Police (SC)	2000 TLR 17 2000 TLR 111
DAMAGES	Unlawful punishment in prison-quantum determined	Lolohea v Kingdom of Tonga (SC)	2009 TLR 168
DAMAGES	Valuation – independent evidence – Constitution	Mataele v. Havili	1994 TLR 73
DAMAGES	Wharfage fees sought – proved that fees were payable – judgment to plaintiff of $85,382.53	Ports Authority v Walter Trading Company Ltd (SC)	2007 TLR 151
DAMAGES	wrongful dismissal – recover only pecuniary loss from repudiation	Kasimili v Vava'u Press (SC)	2002 TLR 168

DEFAMATION

DEFAMATION	Amount claimed should be substantiated- sum required strict proof	Uasi v 'Ahokava (SC)	2009 TLR 159
DEFAMATION	Appeal against damages awarded- excessive	Taunauta & ors v Malupo (SC)	2009 TLR 75
DEFAMATION	Appeal against reduction in damages- imputation of unchastity to a woman	Malupo v Taunauta & ors (CA)	2009 TLR 83
DEFAMATION	appeal on the facts alone	Fakaanga v Moala (SC)	2004 TLR 6
DEFAMATION	Appeal- statutory offence required mens rea- no mens rea	Pohiva v R (CA)	2009 TLR 348

DEFAMATION	Application to strike out defence – court ordered defence be amended – application refused	Edwards v Pohiva (SC)	2000 TLR 3
DEFAMATION	Damages – limited to action pleaded - reduced	Lasalosi v Hausia (SC)	2000 TLR 415
DEFAMATION	Damages – no loss proved	Bank of Tonga v. Peacock	1996 TLR 175
DEFAMATION	defence of privilege – defence allowed	Edwards v Simiki & ors (SC)	2002 TLR 32
DEFAMATION	Elements of liability	Manu v. Haidas & Editor of Tonga Chronicle	1990 TLR 7
DEFAMATION	Fair comment – must be statement of opinion not of fact – facts on which comment is based must be indicated. Innuendo must be pleaded	Kingdom of Tonga and Editor of the Chronicle v. Mataele	TLR 1974-1980 34
DEFAMATION	Privilege – statements in court	Seluini v. Faletau & & ors	1996 TLR 47
DEFAMATION	Publication in newspaper – test for defamation	R v Pohiva (SC)	2008 TLR 260
DEFAMATION	Publication of correction and apology far less prominently than article – showed lack of intent to remedy the wrong	Taufa v Editor of Taimi 'o Tonga (SC)	2001 TLR 101
DEFAMATION	Qualified privilege – jury to decide whether motive improper	Tu'i'onetoa v Pohiva (SC) Tu'i'onetoa v Pohiva (CA)	2001 TLR 54 2001 TLR 58
DEFAMATION	right to trial by jury – right was upheld	Tupou v Saulala & ors (SC)	2004 TLR 158
DEFAMATION	Some categories damage is presumed- this was one such category	Fotu v Loketi (SC)	2003 TLR 110

ELECTIONS

ELECTIONS	"Permanently resides" – Electoral Act	Afeaki & other v. Fuko & other	1993 TLR 15
ELECTIONS	Bribery proved (cash and road works not charitable); election void	Latu v Lavulavu	2016 TLR 17

ELECTIONS	candidate fails to provide the required clearance in time, held that the exact time specified was to be strictly applied and Supervisor correct in rejecting; principles discussed – intention of Act test preferred to former distinction between mandatory and directory requirements; likewise the need for clearances could not be waived	Supervisor of Elections v Tupouniua	November 2014 Ct of Appeal (AC 32/2014) unreported
ELECTIONS	Candidates had outstanding orders against them – names removed from ballot	Attorney General v Tupouniua	1999 TLR 21
ELECTIONS	Clause 65, stay in judgment in effect at time of nomination; means no default in payment of judgment debt; AG not competent to challenge outside legislative scheme	Tapueluelu v AG	2016 TLR 149
ELECTIONS	Disqualification from election	Vaikona v. Fuko (No. 2)	1990 TLR 68
ELECTIONS	Election offences - bribery, corrupt and illegal practices-burden of proof	Fasi v. Pohiva	1990 TLR 79
ELECTIONS	Election offences - making a fase declaration not an offence	Vaikona v. Fuko	1990 TLR 64
ELECTIONS	Election petition - stay of execution pending appeal	Vaikona v. Fuko (No. 3)	1990 TLR 114
ELECTIONS	Elections not to be held invalid unless not substantially in accordance with law	Afeaki v. Prime Minister and Salakielu	TLR 1974-1980 22
ELECTIONS	meaning of "remains outstanding" – instalment agreement – valid candidates	Attorney-General v Fuko (CA)	2002 TLR 184
ELECTIONS	Outstanding order against candidates in election – names removed from ballot	Attorney General v Tupouniua	1999 TLR 21
ELECTIONS	Petition – bribery & corruption – proof	Fusitu'a v. Ta'ofi & Aho	1996 TLR 102
ELECTIONS	Petition – no right to jury trial	Lavulavu v Latu	2015 TLR 421

EMPLOYMENT LAW

EMPLOYMENT LAW	Action to enforce public servant's (police) employment rights – involves both public and private law and civil action as well as judicial review is available; statutory employment contract here replaces crown right to dismiss at will	Ve'ehala v Kingdom of Tonga	2014 TLR 235
EMPLOYMENT LAW	allegations of unlawful employer behaviour – claim dismissed	Masila v Tonga Water Board (SC)	2002 TLR 156
EMPLOYMENT LAW	Appeal against damages- $50,000 award of damages varied to $29,488.14	Leiola Group Ltd v Moengangongo (CA)	2010 TLR 85
EMPLOYMENT LAW	claim of wrongful dismissal – contract allowed dismissal without cause	Weibenga v Uta'atu (SC)	2004 TLR 285
EMPLOYMENT LAW	conduct justifying summary dismissal	Teu v. Commodities Board of Tonga	1989 TLR 94
EMPLOYMENT LAW	conduct justifying summary dismissal Illegality – contract of employment not illegal because employee does not have work permit	Houghland v. Tonga Family Planning Association	1989 TLR 87
EMPLOYMENT LAW	constructive dismissal – resignation voluntary	Tongi v Church Educational System of the Church of Jesus Christ of Latter Day Saints (SC)	2002 TLR 18
EMPLOYMENT LAW	Dismissal – judicial review – natural justice	Fifita v. Min. of Police	1996 TLR 129, 133
EMPLOYMENT LAW	Dismissal – natural justice principles to be observed	'Akau'ola v Tonga Telecommunication Commission (SC)	2000 TLR 263
EMPLOYMENT LAW	Dismissal from public office - principles of natural justice applicable	Commodities Board of Tonga v. 'Uta'atu	1990 TLR 92
EMPLOYMENT LAW	Dismissal with notice	Palu v. Commodities Board of Tonga	1990 TLR 28
EMPLOYMENT LAW	Dismissal without notice	Tu'itupou v. Tonga Water Board	1990 TLR 99
EMPLOYMENT LAW	Dismissal, unlawful, damages at breach date, court will not enforce employment contract if employer has given notice of dismissal	Ve'Ehala v Kingdom	2017 April Ct of Appeal

EMPLOYMENT LAW	Dismissed before police report received- wrongful dismissal claim- unreasonable conduct of employer	Moengangongo v Leiola Group Ltd (SC)	2009 TLR 232
EMPLOYMENT LAW	Employment – contract of employment – dismissal	Tu'itupou v. Tonga Water Board	1990 TLR 99
EMPLOYMENT LAW	Employment – contract of employment – dismissal	Paul v. Commodities Board of Tonga	1990 TLR 28
EMPLOYMENT LAW	Implied term of mutual trust and confidence exists in employment contract under common law – but here not pleaded	'Ilangana v Westpac	October 2014 Ct of Appeal
EMPLOYMENT LAW	Implied that employer can dismiss employer on reasonable notice	Kivalu v LDS Church	2016 TLR 406
EMPLOYMENT LAW	Liability of employer for assault of employee – scope of authority	Hsu & Hsu v. Latu	1991 TLR 25
EMPLOYMENT LAW	pension scheme – not attained age of eligibility – appeal allowed	Tonga Communications Corporation Ltd v Fonua (CA)	2005 TLR 315
EMPLOYMENT LAW	Probationary contract – unjustified dismissal	Koloa v Helu	1999 TLR 227
EMPLOYMENT LAW	question of whether resignation was voluntary – not voluntary	Fonua v Tonga Communications Corporation Ltd (CA)	2006 TLR 226
EMPLOYMENT LAW	Reasonableness is implied term of employment contract – employer breached this	Koloa v Helu	1999 TLR 227
EMPLOYMENT LAW	Resignation entitlement- pension due	Fonua v Tonga Communications Corporation Limited (SC)	2003 TLR 351
EMPLOYMENT LAW	Statute prevails against contract; Presumption against retrospectivity, effect discussed and not applied	Tu'Ifua v PST	2016 TLR 105
EMPLOYMENT LAW	Suspension – no express power – decision reasonable	Helu v Koloa (CA)	2000 TLR 299
EMPLOYMENT LAW	Suspension without pay	Masiwawa v. Tupouniua	1990 TLR 15
EMPLOYMENT LAW	Unfair dismissal – breach of natural justice – not proved	To'ia v Tonga Visitors Bureau (SC)	2001 TLR 329
EMPLOYMENT LAW	Wrongful Dismissal - Claim against Deputy Premier & Acting Minister of Police by two policemen for wrongful dismissal	Tu'akoi & Ors. v. Deputy Premier & Ors.	TLR Volume II (1923-1962) 196

EMPLOYMENT LAW	wrongful dismissal – damages	Kasimili v Vava'u Press (SC)	2002 TLR 168
EMPLOYMENT LAW	Wrongful dismissal – damages assessed	Fonua v Tonga Communications Corporation (SC)	2007 TLR 291
EMPLOYMENT LAW	Wrongful dismissal – damages confirmed	Fonua v Tonga Communications Corporation Ltd (CA)	2008 TLR 167
EMPLOYMENT LAW	Wrongful dismissal – probationary employment contract – reasonable conduct still required	Helu v Koloa (CA)	2000 TLR 299
EMPLOYMENT LAW	Wrongful dismissal – reasonable cause	Vaioleti v Tonga Development Bank (SC)	2000 TLR 271
EMPLOYMENT LAW	wrongful dismissal- Claim for - voluntary resignation	Fonua v Tonga Communications Corporation Limited (SC)	2003 TLR 351
EMPLOYMENT LAW	Wrongful dismissal- found the plaintiff acted fraudulent	Takai v Westpac Bank of Tonga (SC)	2009 TLR 296
EMPLOYMENT LAW	Wrongful dismissal- principles considered	Fiu v TBC	2015 TLR 498
EMPLOYMENT LAW	Wrongful dismissal- Superintendent of prisons	Kingdom of Tonga v Palu aka Tapueluelu, Palu aka Tapueluelu v Kingdom of Tonga (CA)	2009 TLR 86
EMPLOYMENT LAW	Wrongful dismissal- whether leave without pay approved- evidence did not show that leave approved	Lemoto v Gardiner & ors (SC)	2009 TLR 1

EQUITY

EQUITY	Burdensome contractual obligations – no relief	Tonga Development Bank v Helu (SC)	2001 TLR 325
EQUITY	Certiorari - Magistrate exceeding jurisdiction	R. v. Geesteranus	1992 TLR 32
EQUITY	Equitable licence – no evidence of representation or acquiescence by defendant	Taumoepeau v Taumoepeau (LC)	2000 TLR 236
EQUITY	Estoppel – clean hands	Helu v. Taufa & ors	1995 TLR 107
EQUITY	Estoppel – defence between parties to agreement	Salvation Army (Tonga) Trust v Nau (LC)	2001 TLR 66
EQUITY	Issue estoppel – res judicata – binds parties & privies	Tu'ipulotu v. Hon. Niukapu	1995 TLR 79

EQUITY	Land – application of equity	Vailea v. Sakailea, Schaumkel & Min. of Lands	1995 TLR 138
EQUITY	Land court – shield or sword	Fie'eiki v. 'Ilavalu & ors (No.2)	1995 TLR 192
EQUITY	Land lease – part performance	Kalaniuvalu Fotofili v. Free Wesleyan Church & Min. of Lands (No.2)	1995 TLR 101
EQUITY	Mandamus - Public Service Examinations – Production of birth certificates	Ex parte S.H. Kili & Ors	TLR Vol 1 (1908-1959) 33
EQUITY	Mandamus Available in Tonga – Duties of Treasurer	S.P. Afuha'amango v. Minister of Finance	TLR Vol 1 (1908-1959) 70
EQUITY	Prior equitable interest existed – no summary relief could be granted	Maxam Gold Bank Ltd v Laidlaw Holdings Ltd (No. 2) (CA)	2000 TLR 131
EQUITY	Registration of land, entitlement to not affected even if an estoppel stops taking of possession or possessors erect a house; extent of equity decided on facts	Mafile'o v Muhupeatau	2011 TLR 53
EQUITY	Transaction set aside on equitable ground of unconscionability or undue influence	Tauelangi v Hemaloto	2016 TLR 292
EQUITY	Writ of Certiorari available in Tonga	O.B. Krouse Ltd v. S. Takai	TLR Vol 1 (1908-1959) 32

ESTOPPEL

ESTOPPEL	Crown – not apply to	Seiler v. Kingdom of Tonga	1992 TLR 58
ESTOPPEL	Defence – not create an interest – land	Fasi v. Fifita & ors	1996 TLR 68
ESTOPPEL	Defence to claim for possession of land	Motuliki v. Namoa, Motuliki & Minister of Lands	1990 TLR 61
ESTOPPEL	Defence to claim only, not cause of action	Motuliki v. Namoa, Motuliki and Minister of Lands	1990 TLR 61
ESTOPPEL	Estoppel by conduct	Jones v. Cowley	TLR Volume II (1923-1962) 215

ESTOPPEL	Eviction sought- relied on agreement to be joint tenant	Vea v Filipe (LC)	2009 TLR 293
ESTOPPEL	Extent of estoppel decided on facts where dispute is between occupiers of right and person entitled registration of land; Court allows occupiers to remain until second generation come of age	Mafile'o v Muhupeatau	2011 TLR 53
ESTOPPEL	Failure of predecessors in title to challenge unlawful reduction of allotment does not bind persons entitled to succeed	Minister of Lands, Ilavalu and Halaevalu v. Ilavalu and Ilavalu	1981-1988 TLR 1
ESTOPPEL	Holder of allotment who allows person to occupy and erect a building on his land is estopped from evicting the occupier from possession	Fakatava v. Koloamatangi and Fakatava	TLR 1974-1980 15
ESTOPPEL	House given as security – Estoppel by conduct	S. Teu v. T. Fusimalohi & Ors	TLR Vol 1 (1908-1959) 31
ESTOPPEL	Personal restriction on person estopped	'Alofi v Fine	1998 TLR 24
ESTOPPEL	Who can plead – claim	Pekipaki v. OK Toutai Ltd	1994 TLR 40

EVIDENCE

EVIDENCE	16 year old accused – no parent at interview	R v Vaioleti (SC)	2006 TLR 217
EVIDENCE	Admissibility of confession – voir dire	R v Lavakei'aho	1998 TLR 176
EVIDENCE	Admissibility of statements made by accused – voir dire hearing	R v Makahununiu (SC)	2001 TLR 122
EVIDENCE	Character of Prosecution – Leave to call evidence of bad character – Indecent assault	Police v. S. Puta	TLR Vol 1 (1908-1959) 35
EVIDENCE	Civil proceedings – use in criminal proceedings	R. v. Misa	1991 TLR 69
EVIDENCE	Claim of fraud – insufficient evidence	Wang v Fund Management Ltd & ors (LC)	2008 TLR 90
EVIDENCE	complaint not made "shortly after the crime was committed"	R v Li (SC)	2006 TLR 92
EVIDENCE	Confession - not unfair	R v. Kitekei'aho and Tonga	1990 TLR 201
EVIDENCE	confession - Question whether made voluntarily – Crown to prove	R v Lavakei'aho	1998 TLR 176

EVIDENCE	confession given under duress – limited admissibility	R v Pohahau & ors (SC)	2005 TLR 363
EVIDENCE	Corroborating evidence – whether person accomplice – not accomplice – appeal against Magistrate's decision dismissed	Police v Mafi (SC)	2007 TLR 256
EVIDENCE	Criminal charge – evidence of accomplice – Nature of corroboration – Order of witnesses	Police v. S. Losa	TLR Vol 1 (1908-1959) 57
EVIDENCE	Criminal law – inferences – recent complaint – corroboration	R v. Kula	1996 TLR 20
EVIDENCE	Criminal law –confession – sufficiency	R v. Fa'aoso	1996 TLR 36, 42
EVIDENCE	Criminal proceedings - record of interview not signed	1990 TLR 201	R v. Kitekei'aho & Tonga
EVIDENCE	Death certificate – date where death is presumed by the Court	Application re Havea	1999 TLR 243
EVIDENCE	Document – admissibility – copy	Bank of Tonga v. Peacock	1995 TLR 104
EVIDENCE	Election petition – proof – onus – standard	Fusitu'a v. Taofi & 'Aho	1996 TLR 102
EVIDENCE	Estoppel – rule of evidence	Fie'eiki v. 'Ilavalu & ors (No.2)	1995 TLR 192
EVIDENCE	Evidence of accomplice should be corroborated – police officer corroborated evidence	R v Tupou (SC)	2007 TLR 97
EVIDENCE	Failure to put case	Muller v. Manu & ors	1996 TLR 73
EVIDENCE	False evidence given- rejected and accused acquitted	R v Yang Yu Zhen (SC)	2009 TLR 481
EVIDENCE	Fraud - Company director – fraudulent trading – proof	'Uta'atu v. Afeaki	1996 TLR 92
EVIDENCE	Fresh evidence – leave granted to produce evidence – fresh trial ordered	Rainbow Trading Co Ltd v Lin Maolin & ors (CA)	2007 TLR 120
EVIDENCE	Inadmissibility – sexual past	Hafoka v. Mafile'o	1994 TLR 103
EVIDENCE	Inadmissible evidence – if a party considers evidence is inadmissible that party should make objection and obtain a ruling from the court	O G Sanft and Sons v Tonga Tourist and Development Co Ltd, Hamilton and Minister of Lands	1981-1988 TLR 17
EVIDENCE	Income tax claims - who should give evidence	Commissioner of Inland Revenue v. To'ofohe	1990 TLR 181

EVIDENCE	Ownership of building - credibility crucial	Kafovalu v Banks ; The Way Christian Fellowship v Vivi & ors (SC)	2009 TLR 8
EVIDENCE	Paternity – corroboration	Vi v. Mahe	1996 TLR 99
EVIDENCE	presumption of legitimacy unrebutted, Primogeniture, eldest son succeeds to title	Aleamotu'a v Fielakepa	2015 TLR 556

FAMILY LAW

FAMILY LAW	Access arrangements – court ordered reasonable access to father	Paunga v Paunga (SC)	2000 TLR 42
FAMILY LAW	Adoption - Customary – claim to deceased estate	Faletau v 'Akau'ola	1997 TLR 185
FAMILY LAW	Adoption, grandparents best able to care for child	Application by Fifita	2016 TLR 8
FAMILY LAW	Adoption - Illegitimate children – character of adoptive father – share of caring by father	In re W & F	1993 TLR 1
FAMILY LAW	Adoption, inter-country approved, child's best interests the test; not a last resort	Leger v SG	2016 TLR 411
FAMILY LAW	Adoption - Separated adoptive parents – competing claims for custody	Fonua v. Fonua	1991 TLR 57
FAMILY LAW	Adoption by single parent allowed	Application by M	2016 TLR 1
FAMILY LAW	Adoption refused – no evidence that parents could not care for child; taking child overseas away from family not in best interests of child	Application by Pupungatoa	2016 TLR 4
FAMILY LAW	Adoption- not granted because appellants had not lived with children for six months- appeal- appeal allowed	Hatch & ors v Solicitor General (CA)	2010 TLR 177
FAMILY LAW	Affiliation - Complaint – procedure – hearing - corroboration	Fonua v Tonga'onevai	1997 TLR 106
FAMILY LAW	application for return of children to Australia – granted	Y v Y (SC)	2005 TLR 305
FAMILY LAW	Criminal law – confession - admissibility	R v Fakalata	1997 TLR 171
FAMILY LAW	Custody - Guiding Principle on charge of country of residence	Samita v. Samita	1991 TLR 4

FAMILY LAW	Custody - Illegitimate child – Father's rights	Ex parte S. Tu'ipulotu	TLR Vol 1 (1908-1959) 14
FAMILY LAW	Custody – paramountcy of their welfare – general principles	Fonua v. Fonua	1991 TLR 57
FAMILY LAW	Custody – paramountcy of their welfare – general principles	Samita v. Samita	1991 TLR 4
FAMILY LAW	Custody - Two children aged 6 and 7- best interests of the child considered- custody awarded to mother	Paasi v Toutai & ors (SC)	2009 TLR 112
FAMILY LAW	custody and access – child sick – orders made accordingly	Nakao v Afeaki (SC)	2002 TLR 370
FAMILY LAW	Custody- Australian Family Court orders made- child returned	Gorce v Miller (SC)	2003 TLR 316
FAMILY LAW	Custody of 4 year old girl – custody to mother for two years	Taufa v Afu (SC)	2008 TLR 132
FAMILY LAW	Custody order made contrary to position in the pleading- custody order set aside- remitted to Supreme Court	Sefesi v Fukofuka (CA)	2010 TLR 171
FAMILY LAW	Declaration as to Validity of Marriage – Marriage performed on Sunday – Treaty of Friendship	F. Cowley v. H. Anolelei	TLR Vol 1 (1908-1959) 74
FAMILY LAW	Decree nisi hand been granted – ownership of business in question	Vance v Guerra (SC)	2008 TLR 161
FAMILY LAW	Deserting party entitled to present petition for dissolution on ground of five years separation.	Tipou v. Taumoepeau	TLR Volume II (1923-1962) 186
FAMILY LAW	Division of property upon divorce – principles to be applied Damages for adultery – modest not punitive Proof of adultery – must be proved beyond reasonable doubt	Ualesi v. Tukutoa and Ngalu	TLR 1974-1980 83
FAMILY LAW	Divorce - Adultery – damages - jurisdiction	Fua v Sifa	1997 TLR 136
FAMILY LAW	Divorce - Adultery allegation needs co-respondent joined- not named	Vaiangina v Lopeti (SC)	2009 TLR 448
FAMILY LAW	Divorce - Adultery proved- divorce granted	Paasi v Toutai & ors (SC)	2009 TLR 112
FAMILY LAW	Divorce - Ancillary relief – lump sum – principles for assessment	Kinikini v. Pohahau	1989 TLR 83

FAMILY LAW	Divorce - appeal against assessment of maintenance – appeal dismissed	Tonga v Tonga (CA)	2005 TLR 312
FAMILY LAW	Divorce - appellant opposed decree nisi – separation not mutual	Halapua v Tonga (CA)	2004 TLR 211
FAMILY LAW	Divorce – applicant cannot rely on own desertion as a ground	Lemoto-v-Veikune	Unreported, Supreme Court, FD 17/2013, July 2013
FAMILY LAW	Divorce - both parties need to intend to renew marital relations – only one party in this case – decree nisi granted	Tonga v Halapua (SC)	2005 TLR 35
FAMILY LAW	Divorce - Ground of unreasonable behaviour- ground not established	Tonga v Falepapalangi (SC)	2009 TLR 288
FAMILY LAW	Divorce - Grounds of adultery- not proved- cross petition granted	Faingata'a v Tau'alupe (SC)	2003 TLR 308
FAMILY LAW	Divorce - Letter from Minister - weight	Kulitapa v Minister of Lands (No. 2) Minister of Lands v Kulitapa (No. 2)	1997 TLR 122 1997 TLR 128
FAMILY LAW	Divorce - Petition for divorce – claim of unreasonable conduct – not proved	Litili v Fifita (SC)	2000 TLR 285
FAMILY LAW	Divorce - Unreasonable behaviour – ordinary wear and tear of married life	Fe'ao v Fe'ao (FC)	2001 TLR 243
FAMILY LAW	Divorce application – granted on basis of unreasonable behaviour	Mamata v 'Akolo (SC)	2001 TLR 300
FAMILY LAW	Divorce refused – failure to prove wife could not reasonably be expected to live with husband	Ata v Fa'ase'e	2011 TLR 19
FAMILY LAW	Divorce; if cumulative conduct allowed petitioner to leave and end marriage	P v V	2015 TLR 1
FAMILY LAW	Evidence needed for assessment of maintenance- maintenance order set aside- remitted to Supreme Court for assessment	Sefesi v Fukofuka (CA)	2010 TLR 171
FAMILY LAW	financial provision - determination of – orders made	Tonga v Halapua (SC)	2005 TLR 59
FAMILY LAW	joint custody – father wanted children to go to London – court made proposal	Tupouniua v Tupouniua (FC)	2002 TLR 295

FAMILY LAW	Joint property	M. Folau v. T. Folau	TLR Volume II (1923-1962) 208
FAMILY LAW	Legitimacy Application to change birth certificate record to illegitimate- incorrect birth certificate	Latu for Illegitimation of Birth, Application by (SC)	2009 TLR 262
FAMILY LAW	Legitimacy of birth during marriage of parents conclusive in absence of evidence of non-access	Deputy Minister of Lands & Fifita v. Moli	TLR Volume II (1923-1962) 175
FAMILY LAW	Maintenance – evidence of means not heard – new trial ordered	Vaotangi v Vaotangi (SC)	2000 TLR 434
FAMILY LAW	Maintenance – no past maintenance	Paunga v Paunga (SC)	2000 TLR 42
FAMILY LAW	maintenance assessment – insufficient evidence to determine appeal in full – remitted to Magistrates' Court	'Ahio v Tilini (SC)	2005 TLR 22
FAMILY LAW	Maintenance payments - committal for non-payment	Holameitinga v Holameitonga (SC)	2001 TLR 147
FAMILY LAW	maintenance payments – evidence needed to calculate amount	Tonga v Tonga (SC)	2002 TLR 1
FAMILY LAW	Marriage – Validity of – No consent by guardian	T. Finau v. S. Tu'iono & Ors	TLR Vol 1 (1908-1959) 107
FAMILY LAW	Paternity Evidence – corroboration	Vi v. Mahe	1996 TLR 99
FAMILY LAW	Property of wife – whether entitled to share of husband's property	In re 'Alatini decd.	1989 TLR 76
FAMILY LAW	Tongan grandparents apply to adopt child, all reside in NZ – application should be made in NZ, court reluctant to award adoption to grandparents	Re Funganitao	2011 TLR 120

INJUNCTIONS

INJUNCTIONS	Balance of convenience, weakness of case, overall justice were factors here in refusing interim injunction	Paea and Or v Sika	2016 TLR 355
INJUNCTIONS	Damages would be adequate remedy – injunction lifted	Touliki Trading Enterprises Ltd v Procorp Ltd	1999 TLR 216

INJUNCTIONS	Ex-parte applications – written undertakings	Practice Direction No.4/95	1995 TLR 124
INJUNCTIONS	Interim – discharge – Mareva – principles	Primary Produce Exports Ltd v. Lauti & ors	1995 TLR 162
INJUNCTIONS	Interim - To prevent burial in particular site – issue should be resolved by Tongan negotiation	Tonga, Re Application by (LC)	2000 TLR 143
INJUNCTIONS	Interim injunction – principles applicable	Paseka v. Langi	1989 TLR 01
INJUNCTIONS	Interim Injunctions, principles for	Free Wesleyan Church v Samate	2015 TLR 16
INJUNCTIONS	Misleading court – discharge interim	Seluini v Faletau	1996 TLR 47
INJUNCTIONS	Serious issue and balance of convenience required	Tongasat v Pohiva and ors	2015 TLR 199

INSURANCE

INSURANCE	Balance of probabilities – reckless, dangerous driving – insurers not liable	To'a v National Pacific Insurance (SC)	2000 TLR 357
INSURANCE	calculation of stock figure – evidence taken into account	Fisi & ors v Tonga Development Bank & ors (SC)	2002 TLR 38
INSURANCE	discharge form – signed under undue influence – no effect	Fisi & ors v Tonga Development Bank & ors (SC)	2002 TLR 38
INSURANCE	Exclusion clause – "reckless" and "dangerous" not proved – insurer liable	To'a v National Pacific Insurance Ltd (CA)	2001 TLR 189
INSURANCE	Life insurance- non-disclosure of pre-existing medical condition	Latu v Family Assurance Limited (SC)	2009 TLR 476
INSURANCE	maritime insurance – query whether ship was insured – not insured	Kingdom of Tonga v Allianz Australia Insurance Ltd (SC)	2005 TLR 196
INSURANCE	Plaintiff relied on assurance from officer that he was covered – claim not paid	'Epenisa v Tonga Development Bank	2000 TLR 231
INSURANCE	questioned validity of licence – rejected defence	Helu & ors v National Pacific Insurance (SC)	2004 TLR 319
INSURANCE	questioned validity of licence – rejected defence – claim allowed	Helu & ors v National Pacific Insurance (SC)	2005 TLR 439
INSURANCE	Shipping contract – responsibility	Carpenter v. Jewett Cameron	1994 TLR 5

JUDICIAL REVIEW

JUDICIAL REVIEW	Abuse of process – striking out	Fotofili v. Free Wesleyan Church	1994 TLR 111
JUDICIAL REVIEW	Abuse of process to bring ordinary action for public law elements	Tapueluelu v Soakimi (SC)	2001 TLR 105
JUDICIAL REVIEW	Action to enforce public servant's (police) employment rights – involves both public and private law and civil action as well as judicial review is available; statutory employment contract here replaces crown right to dismiss at will	Ve'ehala v Kingdom of Tonga	2014 TLR 235
JUDICIAL REVIEW	Appeal against judge refusing leave – principles discussed; high threshold for manifest unreasonableness	Moala v Public Service Commission	2012 TLR 44
JUDICIAL REVIEW	Appeal against refusal- appellant did not satisfy court of reasonable arguable case- appeal dismissed	Karalus v Royal Commission of Inquiry (MV Princess Ashika) (CA)	2010 TLR 153
JUDICIAL REVIEW	Application for judicial review – no right to cross-examine – need interested parties joined	Heimuli v Kingdom of Tonga (CA)	2007 TLR 127
JUDICIAL REVIEW	Consideration of ordinance- unlawful and invalid- quashed	Lali Media v Lavaka Ata (SC)	2003 TLR 117
JUDICIAL REVIEW	court of inquiry decisions – "Wednesbury unreasonable" test	Edwards v Soakimi & ors (SC)	2002 TLR 51
JUDICIAL REVIEW	Dismissal – employment – rules of natural justice	Fifita v. Min. of Police	1996 TLR 129, 133
JUDICIAL REVIEW	Immunity of Parliamentary Committee's report, privileged, alleged breach of human rights	Vailahi & Anor-v-Pohiva & Ors	Unreported, Supreme Court of Tonga, CV 87 /2012, 14 May 2013
JUDICIAL REVIEW	Indictment unsigned and undated- indictment a nullity and therefore quashed (*but overturned on appeal*)	R v Dalgety QC (SC)	2010 TLR 186
JUDICIAL REVIEW	Leave to apply for judicial review of dismissal – employment governed by contract – leave refused; private rights re dismissal should not be pursued in JR proceedings	Vaioleti v Tonga Development Bank	1999 TLR 57
JUDICIAL REVIEW	Magistrates Court – appeal – review	Croci v. Moa & Fifita	1996 TLR 118

JUDICIAL REVIEW	Natural Justice - Breach thereof – no opportunity to answer concerns	Langi v Lafo'ou (LC)	2001 TLR 135
JUDICIAL REVIEW	Ombudsman not exercising judicial function; not subject to challenge except for lack of jurisdiction, natural justice excluded by the Act	Jurangpathy v Comnr. Public Relations	2016 TLR 466
JUDICIAL REVIEW	order in council - Review of - unlawful	Lali Media & ors v 'Utoikamanu & ors (SC)	2003 TLR 186
JUDICIAL REVIEW	Procedure – affidavits – cross examination	Taumoepeau v Tonga Water Board	1997 TLR 169
JUDICIAL REVIEW	Relief not expressly claimed was allowed where statement of claim alleged similarly	Pedras v PM and ors	2014 TLR 26 and 217
JUDICIAL REVIEW	Striking out – appeal on merits	Leone v. Palu & others	1994 TLR 88

LAND LAW

LAND LAW	"availability" – no authority that lawful occupation renders land unavailable for grant (c/f Tafa v Viau)	Finau v Ministry of Lands	2012 TLR 127
LAND LAW	"availability" essential element before grant could be made – registration to be cancelled	Ma'ake v Lataimu'a (LC)	2007 TLR 15
LAND LAW	A person may be the lawful holder and possessor and owner of land despite not being registered; Minister's grant of application inferred; implied surrender of first allotment; despite entitlement to land it must be applied for	Lisiate v Eli and ors.	2012 TLR 30 and 41; Land Court decision at 2011 TLR 127
LAND LAW	abandoned land – claim of – no step to terminate lease	Tauniuvalu v Kaufusi (CA)	2002 TLR 198
LAND LAW	Adultery of widow – steps to be taken:	Taufculungaki v. Panuve	TLR Volume II (1923-1962) 70
LAND LAW	Agreement by Government to grant inheritable estate to noble not proved.	Kalanivalu v. Government of Tonga and Minister of Lands	TLR 1974-1980 5
LAND LAW	Agreement for sale and purchase of 'api – unclear terms of contract	Fonohema v Piukala (LC)	2001 TLR 286

LAND LAW	Agreement to register land in respondent's name – found agreement	Hafoka v Mokofisi (CA)	2001 TLR 179
LAND LAW	Agreements, not caught by s. 13 if they relate only to the use of a building and curtilage (accepting that buildings are chattels)	Yang v Manoa	2016 TLR 123
LAND LAW	Allotment holder estopped from evicting occupier	Matavalea v. Uata	1989 TLR 101
LAND LAW	Allotment holder estopped from evicting person in occupation by reason of promise made by previous holder	Veikune v Toa	1981-1988 TLR 138
LAND LAW	Allotment is excess of area permitted by Land Act void as to excess only.	Fifita v. Minister of Lands and Fakafanua	TLR 1974-1980 1
LAND LAW	Allotment of land can only be made to a person who is a Tongan citizen	Ministry of Lands v. Kulitapa	TLR 1974-1980 101
LAND LAW	Amalgamation of churches – ownership of lands	Watkins v. Manu	TLR Volume II (1923-1962) 8, 136
LAND LAW	Appeal against dismissal of eviction claim- appeal allowed subject to proceedings in Supreme Court	Vea v Filipe (CA)	2010 TLR 97
LAND LAW	Application for grant of allotment not to be determined solely by date of application	Vaea v. Minister of Lands and Fetu'ufuka	TLR 1974-1980 13
LAND LAW	Application for succession if made later than 12 months after death of previous holder should not be considered.	Taufa v Vilingia, Tupouto'a and Minister of Lands	1981-1988 TLR 85
LAND LAW	Assessor – role	Fie'eiki v. Fifita	1995 TLR 184
LAND LAW	boundary shifted due to erosion	Ongosia & ors v Tongia & ors (LC)	2006 TLR 239
LAND LAW	Building is not part of real estate and is personalty to which PPSA can apply	Westpac v Fonua	2014 TLR 94
LAND LAW	Buildings not fixtures – personal property	Cowley v Tourist Services Ha'pai Ltd and Fund Management Ltd (CA)	2001 TLR 183
LAND LAW	Burden of proof – mistake	Lautaha v. Min. of Lands & Tapueluelu	1995 TLR 180

LAND LAW	Cancellation of deed of grant by Minister – no power	Sete v Palu	2015 TLR 296
LAND LAW	Cancellation of deed of grant by Minister – no power; confirms CJ in Land Court; need for certainty after expiry of s 170 time limit	Palu v Sete	2016TLR 158
LAND LAW	Cancellation of grant by Minister on the ground of Minister's lack of awareness of true facts	Fosita v Tu'ineau, Hon. Fielakepa, Minister of Lands	1981-1988 TLR 105
LAND LAW	charging order – Enforcement of judgment by charging order over land	Intracor Trading Co. (NZ) Ltd. v. Finau	1990 TLR 133
LAND LAW	Charging order nisi- over interest in land- made absolute	Davisco Pineapple Industries Company Ltd v Vakavelo (SC)	2003 TLR 34
LAND LAW	Claim to allotment must be supported by evidence of grant and registration – registration alone not sufficient	Vaka'uta v. Vaka'uta and Minister of Lands	TLR 1974-1980 26
LAND LAW	compensation for surrender of land – no evidence of alleged promise	To'ofohe v Minister of Lands (CA)	2004 TLR 230
LAND LAW	Compensation for surrender of land- no evidence of alleged promise	To'ofohe v Minister of Lands (SC)	2003 TLR 160
LAND LAW	Competing claims on an allotment – registered lease defeated unregistered claim	Taufa v Veamatahau	1999 TLR 200
LAND LAW	Competing interests in allotment – good faith	Salvation Army (Tonga) Trust v Nau (LC)	2001 TLR 66
LAND LAW	Consent by estate holder to allotment - withdrawal of consent must be communicated to Minister of Lands	Fotofili v Fua	1981-1988 TLR 101
LAND LAW	Consent order cannot be varied on application of one party only – akin to contract	Vea & Or v Vea & Ors	2016 TLR 278
LAND LAW	Constitution – discrimination – void	Primary Produce Exports v. Masima	1996 TLR 234
LAND LAW	Construction of agreements – vague and uncertain	Zuvva Co. Ltd v Tafolo & ors	2008 TLR 15
LAND LAW	constructive notice of trust *bona – fide* purchase for value	Finau v. Finau, Teta Ltd and Minister of Lands	1989 TLR 104
LAND LAW	consult – Failure to – did not make registration invalid	'Ameleki v Nai (LC)	2000 TLR 247
LAND LAW	Contempt – breach of orders	Fifita v. Fie'eiki	1995 TLR 153

LAND LAW	Crown Land - No heir to allotments – reverts to Crown	Kilifi v Heimuli	1998 TLR 247
LAND LAW	Damages – loss of amenity	Kingdom of Tonga v Havea (CA)	2001 TLR 172
LAND LAW	Declaration sought that lease was valid	Kaufusi v Tauniuvlau (SC)	2001 TLR 155
LAND LAW	deed of grant – None to plaintiff therefore incomplete registration – no standing	Havili v Tonga Development Bank & ors (LC)	2008 TLR 279
LAND LAW	deed of grant – land lawfully occupied therefore unavailable (but overruled in Lisiate v Eli and ors. Appeal Case 23/2011 2012 TLR 30 and 41	Tafa v Viau & ors (CA)	2006 TLR 287
LAND LAW	deed of grant obtained through fraud – claim failed on that basis	Tukuafu v Tupoumalohi (LC)	2002 TLR 268
LAND LAW	Devolution of allotments – Election by heirs – Claim to be lodged within 12 months – Tongan custom – Estoppel:	Tonga v. Minister of Lands	TLR Volume II (1923-1962) 96
LAND LAW	Devolution of allotments – Election by sons and grandsons	Ma'afu v. Minister of Land	TLR Volume II (1923-1962) 119
LAND LAW	Direction by Minister that allotments of only 5 acres be granted in Ha'apai:	Tu'iono v. Deputy Minister of Lands	TLR Volume II (1923-1962) 56
LAND LAW	Disposition, like sale or conveyance, of allotment – null and void	Kaufusi v Kaufusi	1998 TLR 173
LAND LAW	Dispute over purported grant of land- defendants were in lawful occupation of land	Vainikolo v Kaihea & ors (LC)	2009 TLR 201
LAND LAW	Dwellinghouse – did not form part of the land on which it stood	Tonga Development Bank v Carafa (SC)	2001 TLR 260
LAND LAW	equitable estoppel – Defence of - upheld	Ongolea v Finau (LC)	2003 TLR 147
LAND LAW	Equitable licence – no evidence of representation or acquiescence by defendant	Taumoepeau v Taumoepeau (LC)	2000 TLR 236
LAND LAW	Equitable mortgage - incorrect description of subject matter- subject to enforcement of court judgments	'Alatini v. Church of Jesus Christ of Latter Day Saints & Muti	1990 TLR 1
LAND LAW	Equitable mortgage – possible over leasehold land	Faua Development v Fakafanua	Unreported, LA1/2011 (2012 Ct of Appeal)

LAND LAW	Equity of possession – varied/discharged by subsequent arrangements	Tafolo v Vete	1998 TLR 164
LAND LAW	estate holder – Minister	Taufa v. Kupu & Min. of Lands	1996 TLR 3
LAND LAW	estate holder approves lawful occupation of Land; Minister grants an estate to another; duty to make reasonable enquiry	Naulu v Tupou	2016 TLR 163
LAND LAW	Estate holder signed both Plaintiff's and Defendant's application – What Minister should consider in granting applications	Afu v. Lebas	TLR Volume II (1923-1962) 167
LAND LAW	Estoppel – equity	Fasi v. Fifita & ors	1996 TLR 68
LAND LAW	Estoppel - failure of predecessors in title to challenge unlawful reduction of allotment does not bind person entitled to succeed	Minister of Lands, 'Ilavalu and Halaevalu v 'Ilavalu	1981-1988 TLR 1
LAND LAW	Estoppel - holder of allotment estopped from evicting occupier consented to by previous holder	Veikune v Toa	1981-1988 TLR 138
LAND LAW	Estoppel by representation – long occupancy	'Alofi v Fine	1998 TLR 24
LAND LAW	Estoppel is a defence to claim for possession	Fakatava v. Koloamatangi and Fakatava	TLR 1974-1980
LAND LAW	Eviction or rent sought against water board – eviction seriously disruptive to water supply - rent ordered to be paid at amount assessed by court	Likiliki v Tonga Water Board (LC)	2007 TLR 194
LAND LAW	Eviction orders – appeal against	Fasi v Fifita (CA)	2000 TLR 307
LAND LAW	Eviction sought- agreement to be joint tenants- stopped from evicting defendant	Vea v Filipe (LC)	2009 TLR 293
LAND LAW	evidence – Decision of Land Court on matters of fact should be reversed and case remitted for re-hearing if Court has wrongly refused to admit evidence	To'a v. Veikuno	TLR 1974-1980 107
LAND LAW	Exchange of allotments – decision of Cabinet as to exchange of allotments is final and not justiciable by the courts except in case of fraud	Fonua v. Fiekaipuaka and Minister of Lands	TLR 1974-1980 31

LAND LAW	Exchange of allotments – fraud – setting aside	Fakaanga v. Mataele & Min. of Lands	1995 TLR 184
LAND LAW	Expiry of lease – no right of lessee to receive renewal	Tukino and Haukinima v. Minister of Lands and Tonga	TLR 1974-1980 74
LAND LAW	Fraud - Land – grant – api to	Kama v. Kuli, Kalaniuvalu & Min. of Lands	1995 TLR 117
LAND LAW	Fraud - Land – grant – set aside	Helu v. Taufa & ors	1995 TLR 107
LAND LAW	Grand of second allotment is void unless grantee succeeds to second allotment as son or grandson of deceased holder, in which case he can elect which allotment to hold	Minister of Lands, Fotu, Ma'u and Pohiva v. Ngahe	TLR 1974-1980 40
LAND LAW	Grant of allotment - undisputed occupation and cultivation is evidence of grant	Latu v Moala, Kalanivalu and Minister of Lands	1981-1988 TLR 134
LAND LAW	Grant of allotment by Minister not to be set a side unless grant made on wrong principles	To'ofohe v. Minister of Lands	TLR Volume II (1923-1962) 157
LAND LAW	Grant of allotment cannot be made out of royal estate	Vaea v. Minister of Lands and Fetu'ufuka	TLR 1974-1980 13
LAND LAW	Grant of allotment must be in accordance with promises of estate holder and Governor	Mahe v. Tatafu, Deputy Minister of Lands and Motu'apuaka	TLR 1974-1980 20
LAND LAW	Grant of town allotment by Estate holder before 1927 – Grant by Minister not necessary	Manakotau v. Vaha'i	TLR Volume II (1923-1962) 121
LAND LAW	Grant of Town allotment without Minister's approval invalid	Tu'iono v. Tulua	TLR Volume II (1923-1962) 36
LAND LAW	Granting of allotment not sale even if payments made to estate holder	Finau v. Alafoki	1989 TLR 66
LAND LAW	hearsay rule exception – Minister made grant based on mistake	Tafa v Viau & ors (LC)	2006 TLR 125
LAND LAW	Hereditary estates and titles – jurisdiction – Land Court, not Supreme Court	Tu'ipulotu v Kingdom of Tonga	1997 TLR 257
LAND LAW	Hereditary titles & estates – res judicata – estoppel	Tu'ipulotu v. Hon. Niukapu	1995 TLR 73

LAND LAW	House – not accrete to land – not fixture	Kolo v Bank of Tonga	1997 TLR 181
LAND LAW	If Ministry fails to make proper enquiries; breach of natural justice; registration set aside	To'a v Taumoepeau	2015 TLR 62
LAND LAW	If Ministry fails to make proper enquiries; breach of natural justice; registration set aside	Manu v 'Aholelei	2015 TLR 135
LAND LAW	Judge sits without assessor by consent with no disputed facts – approved with caution, encourages Minister to give notice to occupiers of intent to register a successor	Tahavalu and ors. V Vakameilalo	2014 TLR 106
LAND LAW	Judgment – previous decision – widows interest	Fotu v Ministers of Police and Lands	1997 TLR 242
LAND LAW	Jurisdiction – once properly before Land Court the court can deal with entire dispute	Fonua v Westpac	2015 TLR 410
LAND LAW	Jurisdiction of Land Court and Privy Council to order registration of grant	Tauelangi and Minister of Lands v Tauelangi	1981-1988 TLR 123
LAND LAW	King in Council – Decision by with regard to Crown land conclusive	Tonga Government and Minister of Lands v. Fakafanua	TLR 1974-1980 46
LAND LAW	LAND COMMISSION 1917 - Findings invalid	Kalaniuvalu v. Minister of Lands	TLR Volume II (1923-1962) 40
LAND LAW	Land court – jurisdiction	Tu'ipulotu v. Ma'afu	1994 TLR 125
LAND LAW	Land reverts to Crown in absence of heir but subject to lease; re-grant of land held invalid under s 58	Church of LDS v Fepale and ors	2011 TLR 71
LAND LAW	Later registration ordered to be set aside in favour of earlier one – equitable considerations	'Ameleki v Nai (LC)	2000 TLR 247
LAND LAW	Lease agreement – no consent of Cabinet – not binding	Koloamatangi v Mangisi	1998 TLR 72
LAND LAW	Lease Expiry – Land Act provides no right of renewal to lessee	Tukino and Haukinima v. Minister of Lands and Tonga	TLR 1974-1980 74
LAND LAW	Lease Renewal – no right of lessee to renewal if lease provides that lease is renewable if the lessor shall be willing to again lease the land but lessor is not willing to do so.	Tukino and Haukinima v. Minister of Lands and Tonga	TLR 1974-1980 74

LAND LAW	Lease Rents can be bequeathed by will	Taufe'ulungaki v. Panuve	TLR Volume II (1923-1962) 70
LAND LAW	Leases are personal property	Pangia v. Kalaniuvalu	TLR Volume II (1923-1962) 32
LAND LAW	legitimacy – Challenge to – court could not order adult person to have DNA test	Veikuni v Ha'ateiho (LC)	2008 TLR 295
LAND LAW	Legitimated person – succession	Maliepo v. Faka'osilea & Min. of Lands	1995 TLR 101
LAND LAW	Licence or lease?; agreements seriously impacting title should be registered under Land Act which is a complete code	Yang v Manoa	2015 TLR 329
LAND LAW	Licence to occupy by holder to relatives for holder's life; thereafter occupation remains lawful and enforceable until government takes steps to evict; Minister must take account of occupant's situation	Manu v Aholelei	2015 TLR 135
LAND LAW	Licence to occupy land – Terms of licence- breached through rental agreement	Maka v Kainga & ors (SC)	2009 TLR 499
LAND LAW	licence to operate business not a lease – Land Court had no jurisdiction	Maka v Kainga (LC)	2006 TLR 43
LAND LAW	limitation – Claim to allotment barred by statutory time limitation, even although claimant unaware of grounds for claim	Vaka'uta v. Vaka'uta and Minister of Lands	TLR 1974-1980 26
LAND LAW	Limitation – time bar – claim	Taufa v. Kupu & Min. of Lands	1996 TLR 3
LAND LAW	Limitation of proceedings – proceedings for possession cannot be brought if occupiers have been in adverse possession for more than 10 years	Tu'ifua v. Tui and Ors	TLR 1974-1980 99
LAND LAW	Limitation of time – available land – government purposes	Kulitapa v Minister of Lands Minister of Lands v Kulitapa	1997 TLR 108 1997 TLR 116
LAND LAW	Locus standii shown, natural justice required of Minister	Maama v Ma'afu	2015 TLR 527

LAND LAW	Lost Deed of Grant – affidavit under S.101 of Cap.43 – not necessary to file affidavit within twelve months –	Deputy Minister of Lands & Fifita v. Moli	TLR Volume II (1923-1962) 175
LAND LAW	Minister's duty is to register succession under the Act, if no competing claims, no discretion and no obligation to consult occupiers	Schaumkel v 'Aholelei	2013 Appeal Case AC 14/2012 April 2013
LAND LAW	Minister's grant set aside where he acted on incorrect information	Makaui v Havelu	2016 TLR 233
LAND LAW	Minister must make enquiries; no rule that first in time application prevails over later claims	Pelesikoti v 'Anua	2016 TLR 477
LAND LAW	Mistake – set aside grant – equity	Kilifi v. Heimuli & ors	1996 TLR 31
LAND LAW	Mistake – set aside grant – equity	Palavi v. Cocker & Min. of Lands	1996 TLR 246
LAND LAW	Mistake – set aside grant – equity	Taufa v. Kupu & Min. of Lands	1996 TLR 3
LAND LAW	Mistake and land not available for allotment- registration cancelled	Ongolea v Finau (LC)	2003 TLR 147
LAND LAW	Mortgages – growing crops	Bank of Tonga v. Peacock	1996 TLR 175
LAND LAW	Natural justice – Minister – competing claims	Cocker v Palavi & Minister of Lands	1997 TLR 203
LAND LAW	Notice of claim by heir – Affidavit not necessary	Latu v. Minister of Lands	TLR Volume II (1923-1962) 93
LAND LAW	On death of allotment holder the line of succession in ss 82 and 85 is followed to an entitled successor who either has no allotment or surrenders an existing allotment	Schaumkel v 'Aholelei	2013 Appeal Case AC 14/2012 April 2013
LAND LAW	Oral agreement for the occupation of land is unlawful and will not be enforced	Fakatava and Fakatava v. Koloamatangi and Minister of Lands	TLR 1974-1980 16
LAND LAW	order for accounts – appeal that land court lacked jurisdiction	Piukala v Fonohema (CA)	2002 TLR 200
LAND LAW	Order for possession of land- enforcement by way of committal order- appeal against committal order- granted	Finau v Koloi (CA)	2010 TLR 130

LAND LAW	order sought to remove buildings from Port Authority land	Ports Authority v Walter Trading Co Ltd & ors (LC)	2004 TLR 138
LAND LAW	Order to vacate land not complied with –contempt of court- liable to imprisonment if not complied with	Koloi v Finau (LC)	2009 TLR 290
LAND LAW	Owner of land who permits another person to spend money in the development of the land in reliance upon the grant of an interest on the land by the owner cannot later claim that interest is not a good one	O G Sanft and Sons v. Tonga Tourist and Development Co. Ltd., Hamilton and Minister of Lands	1981-1988 TLR 26
LAND LAW	Ownership - proof of ownership - registration not necessary or conclusive, nor lengthy occupation, nor endorsement of name on plan	Ongosia v Tu'inukauafe and Minister of Lands	1981-1988 TLR 113
LAND LAW	Ownership of house remains with landlord but use of the house and its land passed to the tenant until reversion after lease ends; Tenant protected in equity from forfeiture of lease;	ANZ Bank v Tatola	2011 TLR 10
LAND LAW	Party in lawful possession of land, even when others claim ownership in Land Court, are entitled to peaceful possession and Supreme Court may enforce this – not a case involving title	Niu v Takealava	2013 TLR 55
LAND LAW	Permit – when permit expires, grantee must give up possession of land notwithstanding age of grantee or improvements added to land by grantee	Tu'inukuafe v. Minister of Lands and Tonga Government	TLR 1974-1980 53
LAND LAW	Person permitted to occupy land cannot challenge the title of the person who permitted him to occupy the land	Pulu v. Bloomfield	TLR 1974-1980 105
LAND LAW	Person permitted to occupy land without a lease is only a licensee and can be required to move upon reasonable notice	Pulu v. Bloomfield	TLR 1974-1980 105
LAND LAW	Posthumous registration at request of widow valid	Moa and Moa v. Moa	TLR 1974-1980 87
LAND LAW	Pre-conditions to registration – surrender and payment of fee	Taufa v Veamatahau	1999 TLR 200

LAND LAW	Preservation of land – estate holder's duty	His Royal Highness Prince Lavaka v Tafolo (LC)	2000 TLR 363
LAND LAW	prior consultation – Lack of by Minister – does not make grant invalid	Minister of Lands v Finau (CA)	2001 TLR 221
LAND LAW	Proceedings for recovery of possession of land cannot be brought if occupiers have been in adverse possession for more than 10 years	Tu'ifua v. Tui	TLR 1974-1980 99
LAND LAW	Promise – contract or custom	Po'uhila v. Veikune	1996 TLR 11
LAND LAW	public notice – Failure of Minister of Lands to give - damages could be awarded	Koloamatangi v Koloamatangi (LC)	2003 TLR 131
LAND LAW	Public works – completed – reversion	Palavi v. Cocker & Min. of Lands	1996 TLR 246
LAND LAW	purported grant of allotment – Royal Estate – not valid grant	Tukuafu v Latu & ors (LC)	2005 TLR 141
LAND LAW	Purported power of attorney-fraudulent- tenancy agreement invalid	Valevale v Loto'aniu & ors (LC)	2009 TLR 278
LAND LAW	question of entitlement to tax allotment – appeal allowed	Tukuafu v Latu & ors (CA)	2005 TLR 346
LAND LAW	Register – Entries in conclusive except for fraud or mistake:	Ma'asi v. Akau'ola & Deputy Minister of Lands	TLR Volume II (1923-1962) 107
LAND LAW	Registration – alleged misrepresentation	Na'ati v Motu'apuaka	1998 TLR 19
LAND LAW	Registration - cancellation - principles applicable	Moa v. Faka'osita, Afu Ha'alaufuli, Deputy Minister of Lands	1990 TLR 195
LAND LAW	Registration – Deed of Grant – Entry on Plan – verbal application	Tokotaha v. Minister of Lands	TLR Volume II (1923-1962) 99, 159
LAND LAW	Registration - Deed of grant – paramount	Lautaha v. Min. of Lands & Tapueluelu	1995 TLR 187
LAND LAW	Registration – effect of registration – registered transfer of land conveys good title notwithstanding existence of trust	Teta Co Ltd. v. Finau, Finau and Minister of Lands	TLR 1974-1980 64
LAND LAW	Registration – invalidity of registration	Vai v. Ullafu	1989 TLR 56

LAND LAW	Registration – principles for Minister to exercise in his wide discretion – residency Applicant not resident on estate or in Tonga – effect of	Moa v. Faka'osita, Ha'alaufuli & Minister of Lands	1991 TLR 32
LAND LAW	Registration by fraud- innocent party do grant not cancelled	Koloamatangi v Koloamatangi (LC)	2003 TLR 131
LAND LAW	Registration is not a test of ownership but merely a method of proof of ownership	Manu v Aholelei	2015 TLR 135
LAND LAW	Registration not only test of ownership – Widow's life estate – Husband died 1931 – Notice by widow not required:	Moala v. Tu'iavitu	TLR Volume II (1923-1962) 104, 153
LAND LAW	Registration not sufficient by itself to prove title to allotment	Vaka'uta v. Vaka'uta and Minister of Lands	TLR 1974-1980 26
LAND LAW	Registration of allotments – Minister's discretion Disagreement between Judge & Assessor	Maka v. Minister of Lands	TLR Volume II (1923-1962) 111
LAND LAW	registration of deed of grant – registration final	Maamakalafi & ors v Finau (CA)	2004 TLR 218
LAND LAW	Registration of deed of grant- registration final	Finau v Maamakalafi (LC)	2003 TLR 284
LAND LAW	Registration of land- Minister not given full information and acted mistakenly	Mateni v Pulileka & ors (LC)	2009 TLR 410
LAND LAW	Registration of land- vacant land	Holani v Tava (CA)	2003 TLR 175
LAND LAW	Registration of land, entitlement to not affected even if an estoppel stops taking of possession or possessors erect a house; extent of equity decided on facts	Mafile'o v Muhupeatau	2011 TLR 53
LAND LAW	Registration of tax allotment – Mistake in the Register altered by the Court	V. Hema v. F. Hema & Minister of Lands	TLR Volume II (1923-1962) 126
LAND LAW	Registration of title is final proof – must have Deed of Grant	Vuna v 'Ahio	1999 TLR 245
LAND LAW	Registration of Town allotment before 1927 unnecessary – grant without Tofi'a holder's consent in valid:	Tu'uhetoka v. Malungahu	TLR Volume II (1923-1962) 53

LAND LAW	Required for government purposes - when	Kulitapa v Minister of Lands (No. 2) Minister of Lands v Kulitapa (No. 2)	1997 TLR 122 1997 TLR 128
LAND LAW	Resumption – Land Court - jurisdiction	Cocker v Palavi & Minister of Lands	1997 TLR 203
LAND LAW	Right of election applies only to sons & grandsons irrespective of date of registration	Fatai v. Deputy Minister of Lands	TLR Volume II (1923-1962) 172
LAND LAW	Right of Land Court to deal with Nobles' titles	Uluilakepa v. Fulivai	TLR Volume II (1923-1962) 10
LAND LAW	Right of successor to succeed to full area of allotment	Mahe v. Tatafu, Deputy Minister of Lands and Motu'apuaka	TLR 1974-1980 20
LAND LAW	Rights of succession of tax allotment - younger sons of deceased holder's brother not entitled.	Fifita v Minister of Lands and Huahulu	1981-1988 TLR 65
LAND LAW	Royal Family Estate – sub-lease – whether Cabinet consent required – challenge to validity by non-party – burden of proof	Fund Management Ltd v Fifita (No. 2) (LC)	2000 TLR 342
LAND LAW	Royal grant of occupation of land to charity – valid grant	Langa Fonua 'a Fefine Tonga & ors v Manuofetoa & ors (LC)	2008 TLR 215
LAND LAW	Section 170 time limit, certainty of title	Fau v Fau	2016 TLR 172
LAND LAW	Sections 82 and 170 considered – time bar in s 170 not affected	Mokofisi v Minister of Lands	2014 TLR 267
LAND LAW	Security over lessee's interest is chattel; obiter quaere mortgage of lease interest in land? Equitable security over lease?	Westpac v Fonua	2014 TLR 94
LAND LAW	Setting aside by court of grant of allotment – principles applicable	Havea v. Tu'i'afitu, Kava and Minister of Lands	TLR 1974-1980 58
LAND LAW	Setting aside by court of grant of allotment – principles applicable	Hausia v. Vaka'uta and Minister of Lands	TLR 1974-1980 55
LAND LAW	Simultaneous applications – Minister's discretion – Decision by throwing dice	Tu'ipulotu v. Deputy Minister of Lands	TLR Volume II (1923-1962) 102, 151

LAND LAW	Simultaneous applications – To whom should grant be made	Hafo'ou v. Fotu	TLR Volume II (1923-1962) 60
LAND LAW	Status of grant of allotment – fairness and justice most important	Paane v Mone & ors (LC)	2008 TLR 232
LAND LAW	Status of lease – still valid – Minister ordered to revoke cancellation	Fakafanua & ors v Fakafanua & ors (LC)	2008 TLR 120
LAND LAW	Statute- barred	To'ofohe v Minister of Lands (LC)	2003 TLR 160
LAND LAW	Subdivision – no written notice to holder – Tongan Custom – Court not bound by technicalities	Katoanga v. Ofahengaue	TLR Volume II (1923-1962) 113
LAND LAW	Subdivision of allotment – can only be made in favour of certain member of family i.e. sons, grandson, brothers, nephews	Taiala v. Kafalava	TLR 1974-1980 43
LAND LAW	Subdivision of allotment in excess of statutory area	Taufeulungaki v. Panuve	TLR Volume II (1923-1962) 70
LAND LAW	Subdivision of allotment in excess of statutory area: No notice to holder	Mateitalo v. Naufahu	TLR Volume II (1923-1962) 95
LAND LAW	Subdivision of allotments in excess of statutory area – Who is entitled to a lease	Finau v. Kalifi	TLR Volume II (1923-1962) 58
LAND LAW	Subdivision of excessive allotment – statutory requirements as to written notice directory not mandatory so that failure to comply does not invalidate subdivision	Minister of Lands, Tupou and Vakasiuola v. Vakasiuola	TLR 1974-1980 78
LAND LAW	Sub-leases contained obvious mistake – true construction valid sub-lease	Cowley v Tourist Services Ha'pai Ltd and Fund Management Ltd (CA)	2001 TLR 183
LAND LAW	Subsequent grant of Town allotment previously given by Noble's predecessor – Land registered – First grant prevails – Title of Registered holder paramount:	Malupo v. Havili	TLR Volume II (1923-1962) 30

LAND LAW	Succession - ladder of	Kilivi v. Heimuli & ors	1996 TLR 31
LAND LAW	Succession – where chain ends	Kilifi v Heimuli	1998 TLR 247
LAND LAW	Succession rules – not to younger brothers	Langi v Lafo'ou (LC)	2001 TLR 135
LAND LAW	Surrender – grants – cancellation natural justice applicable	Hakeai v. Min. of Lands & ors	1996 TLR 142
LAND LAW	Surrender of allotment – Half brother of same mother but a different father not a "brother" within the meaning of S.75 of Land Act	Vaisima v. Vaea	TLR Volume II (1923-1962) 64
LAND LAW	Surrender of land - waiver by heir of rights of succession	Kaufusi v Taunaholo	1981-1988 TLR 70
LAND LAW	Surrender of tax allotment – consent of heir not necessary	Vakamellalo v. Vakamellalo and Minister of Lands	1989 TLR 98
LAND LAW	Tenancy – Interpretation of Memorandum of Tenancy agreement – claim unsuccessful and counterclaim for eviction upheld	Knab v Fohe (LC)	2007 TLR 105
LAND LAW	Tenancy - whether air conditioning unit was fixture – ruled that it was fixture	Fu v Giant Turtle Investments Ltd (LC)	2005 TLR 38
LAND LAW	time bar of 10 years – no express exception	Cocker v Cocker & ors (CA)	2002 TLR 252
LAND LAW	Title – proprietory estoppel claimed	Na'ati v Motu'apuaka	1998 TLR 19
LAND LAW	Tofia - "Legitimate male issue" – Land Court bound by Privy Council decisions	Akaveka v. Nuku	TLR Volume II (1923-1962) 78
LAND LAW	Tofia - Claim to title – adopted son – Tongan custom – Advice of Assessor	Pafua v. Motu'apuaka	TLR Volume II (1923-1962) 83
LAND LAW	Tofia - Claim to title: King's presence unnecessary at appointment – Letter of appointment – Tongan customs	Manatau v. Motu'apuaka	TLR Volume II (1923-1962) 86
LAND LAW	Tofia - Claim to Tofi'a – Law of Succession – Legitimacy – The Constitution:	Finau v. Tu'ivakano	TLR Volume II (1923-1962) 13
LAND LAW	Tofia - Claim to Tofi'a – Tongan custom – marriage before 1875 – King bound by Constitution	Namoa v. Vaha'i	TLR Volume II (1923-1962) 22

LAND LAW	Tofia - Grant of land to Noble invalid without concurrence of Privy Council	Tuita v. Minister of Lands	TLR Volume II (1923-1962) 18
LAND LAW	Tofia - Hereditary titles – adopted sons – Inheritance to be traced from prior to grant of H.M. Tupou I – 1935 Amendment to Clause 107 of Constitution does not have retrospective operation	Kaianuanu v. Fulivai	TLR Volume II (1923-1962) 128, 178
LAND LAW	Tofia - Titles to be traced from grant by H.M. Tupou I – Limitation of action applies to Nobles	Tu'ipulotu v. Kavaonuku	TLR Volume II (1923-1962) 143
LAND LAW	Tofia - Titles to be traced from grant by H.M. Tupou I – Limitation of action applies to Nobles	Ahokava v. Malupo	TLR Volume II (1923-1962) 150
LAND LAW	Tofia - Tofi'a regularly granted by H.M. Tupou I cannot be altered at whim of succeeding sovereign	Motu'apuaka v. Vaha'i	TLR Volume II (1923-1962) 6
LAND LAW	Tofia - Tracing an inheritance – 1875 the starting point – Full blood referred to half blood.	Ahokava v. Malupo	TLR Volume II (1923-1962) 74, 150
LAND LAW	Tofia - What is meant by "next male heir" in S.41	Liku v. Ha'angana	TLR Volume II (1923-1962) 66
LAND LAW	Tofia - What must be proved – Illegitimacy – Tongan marriages – Tongan custom	Moeaki v. Fakafanua	TLR Volume II (1923-1962) 26
LAND LAW	Tonga – non Tongan – right to hold	Pahulu v. Motlini & ors	1996 TLR 253
LAND LAW	Town allotment – Evidence of title – Presumption of genuiness of documents – Costs against Minister:	Peliatisi v. Deputy Minister of Lands	TLR Volume II (1923-1962) 47
LAND LAW	Town allotment – Unregistered holder before 1927 – Registration not essential – Minister has no power to order subdivision of town allotments – Reopening case for further legal argument	Minister of Lands v. Kamoto	TLR Volume II (1923-1962) 132
LAND LAW	Vacant possession sought – defendant had no right to be there or to harvest the crops	HRH Prince Tu'ipelehake v Lavulavu (LC)	2000 TLR 242

LAND LAW	Widow must lodge claim within twelve months from husband's death	S. Malamala v. S.H. Malamala & Deputy Minister of Lands	TLR Volume II (1923-1962) 169
LAND LAW	Widow of title holder – registered title holder	Koloamatangi v Mangisi	1998 TLR 72
LAND LAW	Widow's allotment – Proof of adultery – Limitation of action	Lavaka v. Pahulu	TLR Volume II (1923-1962) 109
LAND LAW	Widow's life estate – allegation of adultery – Claim must be bona fide:	Vaea v. Pael	TLR Volume II (1923-1962) 45
LAND LAW	Widow, life tenant can surrender interest and prospective heirs neednot be consulted	Tu'akoi v Tu'akoi	2016 TLR 243
LAND LAW	Will – Disposal of land by will	Leger v. Niu	1989 TLR 11

LAW PRACTITIONERS

LAW PRACTITIONERS	Conflict of interest – abused relationship of trust	Fonohema v Piukala (LC)	2001 TLR 286
LAW PRACTITIONERS	conflict of interest – not necessarily professional misconduct	'Etika v Tonga Law Society (SC)	2002 TLR 75
LAW PRACTITIONERS	Costs – numerous successful defendants	Nukuma'anu v. 'Aholelei	1996 TLR 1
LAW PRACTITIONERS	Costs – taxation - solicitor/client costs	Spoutz v Taufateau, Tu'utafaiva	1997 TLR 154
LAW PRACTITIONERS	disciplinary committee – deliberately mislead committee – appeal allowed	Kasimili v Muller (SC)	2005 TLR 1
LAW PRACTITIONERS	disciplinary tribunal - professional misconduct – high standard of proof needed	'Etika v Tonga Law Society (SC)	2002 TLR 75
MAGISTRATE'S COURT	adjournment – judicial review of decision – Magistrate's decision upheld	Tu'ivai v Lokotui (SC)	2005 TLR 178

MAGISTRATE'S COURT

MAGISTRATE'S COURT	appeal against decision – factual findings upheld	Pa'ila v Mau & ors (SC)	2002 TLR 114
MAGISTRATE'S COURT	Appeal against decision- against fine imposed- must be means enquiry before fine imposed	Pohiva & ors v Police (SC)	2009 TLR 41
MAGISTRATE'S COURT	Appeal against decision- findings of fact not recorded	Uasi v 'Ahokava & ors (SC)	2009 TLR 164
MAGISTRATE'S COURT	Appeal against decision- Magistrate erred in law	Allison & ors v Tu'ipulotu (SC)	2009 TLR 224
MAGISTRATE'S COURT	Appeal against decision- no reason to disturb Magistrate's finding	Tonga Water Board v Fua & ors (SC)	2009 TLR 227
MAGISTRATE'S COURT	Appeal against decision –no reason to interfere with findings	Uasi v 'Ahokava (SC)	2009 TLR 159
MAGISTRATE'S COURT	Appeal against decision, unable to say Magistrate acted unreasonably or misdirected	R v Naeata	2016 TLR 70
MAGISTRATE'S COURT	Clerks – review appointment of clerks in Magistrates' Court – held to comply with legislation	Taufa v Police Department (SC)	2000 TLR 121
MAGISTRATE'S COURT	Costs – taxation – Magistrates' Courts	Practice Direction Note 2/94	1994 TLR 2
MAGISTRATE'S COURT	Jurisdiction – split one claim – void	Croci v. Moa & Fifita	1996 TLR 118
MAGISTRATE'S COURT	Jurisdiction for trying indictable offence - sentencing	R v Veamatahau	1999 TLR 195
MAGISTRATE'S COURT	Power to amend summons for offence under Order in Public Places Act- interpretation of criminal case	Hekeheke v Police (SC)	2010 TLR 34
MAGISTRATE'S COURT	Reasons for their decisions must be given by Magistrates – basic requirement of due process	Pohiva v Magistrates' Court	2015 TLR 275
MAGISTRATE'S COURT	Remanded appellant in custody – should have granted bail	Bourke v Police R v 'Ahokovi	1999 TLR 81 1999 TLR 239
MAGISTRATE'S COURT	Role in trial – intervention	Halalupe v. Police	1994 TLR 122
MAGISTRATE'S COURT	Ruling was required as to admissibility when voluntariness was at issue	R v Latu	2016 TLR 317
MAGISTRATE'S COURT	Sentencing – magistrates – jurisdiction	Hu'ahulu & another v. Police	1994 TLR 93
MAGISTRATE'S COURT	Sentencing – prosecutor's opinion	Lui v. Police	1994 TLR 100
MAGISTRATE'S COURT	Sentencing power	R v Fangatau (SC) R v Talia'uli (SC)	2003 TLR 1 2003 TLR 52

MAGISTRATE'S COURT	Sentencing power – should follow recent case law – sentence increased	Lolohea v Police	1999 TLR 212
MAGISTRATE'S COURT	transcript – error in - allegations of– remitted back to Magistrate's Court for rehearing	Hoko v Police (SC)	2004 TLR 84

NEGLIGENCE

	Advice – negligent – duty of care – servant	BPT Tonga Ltd v. Tohi	1996 TLR 63
NEGLIGENCE	breach of duty of care – proximity and liability of police	Jagroop v Soakai & ors (SC)	2002 TLR 144
NEGLIGENCE	Breach of duty of care – proximity and liability of police	Jagroop v Sokai and the Kingdom of Tonga (CA)	2001 TLR 234
NEGLIGENCE	Breach of statutory duty	Clark v. Pikokivaka & others	1993 TLR 50
NEGLIGENCE	collision – duty to mitigate loss	Folau v Ledger & ors (SC)	2004 TLR 131
NEGLIGENCE	Culpability of defendant – not culpable	Polynesian Airlines (Investments) Ltd v Kingdom of Tonga	1998 TLR 178
NEGLIGENCE	Damages - head injuries – nursing care – loss earning capacity	Kilisimasi v. Malani & ors	1996 TLR 189
NEGLIGENCE	Damages for loss of vessel – no negligence of defendant	Walter Trading Company Ltd v Ports Authority	2008 TLR 7
NEGLIGENCE	Duty of care – reasonable standard – respondent not shown to fall below the standard required	Polynesian Airlines (Investments) Ltd v Kingdom of Tonga (CA)	2000 TLR 168
NEGLIGENCE	Duty of care – vicarious liability	Vaka'uta v Napa'a	1998 TLR 50
NEGLIGENCE	duty of care not absolute – appeal dismissed	Corbett v Sitani Mafi Company Ltd (CA)	2004 TLR 196
NEGLIGENCE	Each party claims negligence of the other	Wolfgram v Lakulu & ors (SC)	2008 TLR 114
NEGLIGENCE	failed to prove any negligence	Fa'aoa & ors v Tonga Development Bank (SC)	2002 TLR 317
NEGLIGENCE	Forseeability of injury – psychological harm	Vaka'uta v Napa'a	1998 TLR 50
NEGLIGENCE	Forseeability of risk – stowing away in wheel well too remote	Polynesian Airlines (Investments) Ltd v Kingdom of Tonga	1998 TLR 178

NEGLIGENCE	no explanation - res ipsa loquitur applied	Church of Tonga v Pacific Trading Ltd & ors (SC)	2002 TLR 288
NEGLIGENCE	Post-traumatic stress disorder – appeal as to damages	Napa'a v Vaka'uta	1998 TLR 159
NEGLIGENCE	solicitor –Negligence by – Unregistered agreement – Claim for money lent	N. Brown v. M. Niu	TLR Vol 1 (1908-1959) 81
NEGLIGENCE	Statutory duty of care – supermarket – no evidence of failure	Egan v Morris Hedstrom Tonga Ltd (SC)	1998 TLR 77
NEGLIGENCE	Statutory duty of care- supermarket- no evidence of failure	Corbett v Sitani Mafi Company Ltd (SC)	2003 TLR 140
NEGLIGENCE	Traffic - car accident – liability determined	Maile v Tonga Cooperative Federation Company & ors (SC)	2004 TLR 123
NEGLIGENCE	Trusts - Obligations – presumptions – when arise Undue influence – trustee	Cunninghan v. Jacobsen	1994 TLR 47

POLICE

POLICE	Assault by police – Liability of Crown	Sanft v. Minister of Police & Ors	TLR Vol 1 (1908-1959) 117
POLICE	Civil liability - police liable if they slap arrested person	Soakai v Taulua, Minister of Police and Government of Tonga	1981-1988 TLR 46
POLICE	Civil liability - police liable in negligence if they incorrectly inform driver of vehicle that vehicle cannot be driven	Soakai v Taulua, Minister of Police and Government of Tonga	1981-1988 TLR 46
POLICE	Obstruction – lawful executive of duty – rank - proof	Hopoi & Fusimalohi v Police	1997 TLR 221
POLICE	Wrongful dismissal – police not servants of Premier nor of Minister	S. Tu'akoi v. The Premier & Ors	TLR Vol 1 (1908-1959) 45

PRACTICE & PROCEDURE

PRACTICE & PROCEDURE	Action struck out as hopeless; claim Government failed to protect property as guaranteed by Constitution held not enforceable (re riot damage)	Dandin v Police and Kingdom	2012 TLR 123

PRACTICE AND PROCEDURE	adjournment – application for	Manako v Ha'amao Growers Company Ltd (CA)	2004 TLR 209
PRACTICE AND PROCEDURE	Adjournment – dismissal – onus of proof	Attorney General v. Moala & ors	1996 TLR 160
PRACTICE AND PROCEDURE	Adjournments – reasons – need to keep records – discretion	Mataele v. Havili	1994 TLR 73
PRACTICE AND PROCEDURE	administrator – Appointment of – Duties of administrator – Sale of lease – Transmission of property – Power of Court.	S. Likiliki v. L. Vea	TLR Vol 1 (1908-1959) 62
PRACTICE AND PROCEDURE	Admiralty - Owner may arrest own vessel	McGregor Consultant and Management Services Ltd. v. Kama	1981-1988 TLR 90
PRACTICE AND PROCEDURE	admissibility of document – not public document and hearsay – not admissible	Cauchi v Air Fiji & ors (SC)	2005 TLR 154
PRACTICE AND PROCEDURE	Affiliation complaint - hearing	Fonua v Tonga'onevai	1997 TLR 106
PRACTICE AND PROCEDURE	Amendment of particulars during trial - allowed	Pulu v R (CA)	2000 TLR 293
PRACTICE AND PROCEDURE	Appeal – argument not pleaded in lower Court	Coleman v. Kolo	1991 TLR 35
PRACTICE & PROCEDURE	Appeal – interlocutory judgement – leave required	Bank of Tonga v. Kolo, Vete & Ma'u (No.2)	1995 TLR 175
PRACTICE & PROCEDURE	Appeal – leave – case stated – criteria	Primary Produce Exports v. Masima (No.2)	1996 TLR 244
PRACTICE AND PROCEDURE	Appeal – Leave to appeal against interlocutory order- discretionary interlocutory application	Hottsie Anne Co Ltd c Australia and New Zealand Banking Group (CA)	2009 TLR 353
PRACTICE AND PROCEDURE	Appeal – Leave to appeal – filed out of time	R v Puloka (CA)	2000 TLR 335
PRACTICE AND PROCEDURE	Appeal – Leave to appeal application- indictment quashed- public importance question- leave granted	R v Dalgety (CA)	2010 TLR 195
PRACTICE AND PROCEDURE	Appeal – leave to appeal out of time	AJ & E Ltd v FC Nichols (Wholesales) Ltd (CA)	2006 TLR 78
PRACTICE AND PROCEDURE	Appeal – Leave to appeal out of time - granted	Fasi v Fifita (CA)	2000 TLR 307
PRACTICE AND PROCEDURE	Appeal – Leave to appeal preliminary Appeal – interlocutory order- dismissed	'Utoikamanu v Lali Media Group (CA)	2003 TLR 184

PRACTICE AND PROCEDURE	Appeal – leave to appeal to Court of Appeal – not needed for final order	Thompson v Tonga Development Bank & ors (SC)	2004 TLR 11
PRACTICE AND PROCEDURE	Appeal – leave to withdraw appeal	Fakaulu v R (CA)	2004 TLR 150
PRACTICE AND PROCEDURE	Appeal – new ground of appeal not pleaded below	Tauniuvalu v Kaufusi (CA)	2002 TLR 198
PRACTICE AND PROCEDURE	Appeal – point not taken in court below	Cocker v Palavi & Minister of Lands	1997 TLR 203
PRACTICE AND PROCEDURE	Appeal – reopen case - direction	Kin v Liou	1997 TLR 206
PRACTICE AND PROCEDURE	Appeal after guilty plea - dismissed	Manu v R	1998 TLR 104
PRACTICE AND PROCEDURE	Appeal against granting of strike out application	Mangisi v Minister of Lands & ors (CA)	2008 TLR 173
PRACTICE AND PROCEDURE	Appeal against interlocutory order- criminal trial	R v Pohiva & ors (CA)	2003 TLR 82
PRACTICE AND PROCEDURE	Appeal against judgment by default	Tonga Water Board v Likiliki (CA)	2008 TLR 185
PRACTICE AND PROCEDURE	Appeal against jury verdict – open to jury to accept evidence	Tu'i'onetoa v Pohiva (CA)	2001 TLR 58
PRACTICE AND PROCEDURE	Appeal against Magistrate's decision – not proper notice of intention to appeal – appeal dismissed	Police v Koloa & ors (SC)	2007 TLR 67
PRACTICE AND PROCEDURE	Appeal against Magistrate's decision – question of witness credibility – Court would not depart from Magistrate's assessment – appeal dismissed	Fanua v Uata (SC)	2007 TLR 80
PRACTICE AND PROCEDURE	Appeal against partial strike out- lack of clarity- appeal dismissed	Paea v Prisons Court of Inquiry (CA)	2003 TLR 266
PRACTICE AND PROCEDURE	Appeal against refusal to set aside default judgment- judge did not consider merit of defence pleaded	Moehau & ors v Pacific Stores Limited (CA)	2009 TLR 382
PRACTICE AND PROCEDURE	Appeal against strike out – cause of action may succeed	Jagroop v Sokai and the Kingdom of Tonga (CA)	2001 TLR 234
PRACTICE AND PROCEDURE	Appeal against strike out of statements of claim- discussion of malicious prosecution	Tu'ivai v Kingdom of Tonga (CA)	2009 TLR 97
PRACTICE & PROCEDURE	Appeal Court's power to set aside regular consent order; lawyers' implied power to settle	Vait'ulala v 'Iongi	2011 TLR 75
PRACTICE AND PROCEDURE	appeal out of time – special circumstances	Fonua v Tonga Communications Corporation Ltd (CA)	2006 TLR 278

PRACTICE AND PROCEDURE	appellant withdrew appeal – appeal dismissed	Miller v Gorce (CA)	2004 TLR 217
PRACTICE AND PROCEDURE	Application for 'unless' order to be brought into effect – set aside	Moore Electronic Company Ltd v National Pacific Insurance Company Ltd (SC)	2000 TLR 6
PRACTICE AND PROCEDURE	application for interim relief	Lau Lava Ltd v The Minister of Labour Commerce and Industries & ors (SC)	2004 TLR 303
PRACTICE AND PROCEDURE	application for judicial review and certiorari – refused	Tu'ivai v Lokotui (SC)	2005 TLR 178
PRACTICE AND PROCEDURE	application for judicial review of Government policy decision	Flyniu & ors v Ata & ors (SC)	2006 TLR 10
PRACTICE AND PROCEDURE	Application for leave for judicial review- Royal Commission of Inquiry- case nor made out- decline	Karalus v Royal Commission of Inquiry (MV Princess Ashika) (SC)	2010 TLR 133
PRACTICE AND PROCEDURE	Application for leave to appeal- against orders setting aside default judgment- judgment not have been granted	Hoar & ors v Du Bois & ors (CA)	2009 TLR 358
PRACTICE AND PROCEDURE	Application for leave to appeal out of time	Tu'ivai v Tonga Development Bank (CA)	2009 TLR 329
PRACTICE AND PROCEDURE	application for leave to appeal out of time – no prospect of success – leave refused	Fungavai & ors v Niutupuua & ors (CA)	2002 TLR 219
PRACTICE AND PROCEDURE	Application for leave to withdraw claim against deceased second defendant	Sevele v Pohiva & ors	2008 TLR 37
PRACTICE AND PROCEDURE	Application for rehearing- must be finality to litigation	Tu'ivai v Tonga Development Bank	2009 TLR 336
PRACTICE AND PROCEDURE	Application for security for costs- strong case and unjust if unable to pursue	Vea & ors v Vea & ors (LC)	2009 TLR 460
PRACTICE AND PROCEDURE	Application for stay – overseas counsel needed for representation	R v Sosefo (SC)	2008 TLR 108
PRACTICE AND PROCEDURE	application for stay of execution pending appeal	Thompson v Tonga Development Bank & ors (SC)	2004 TLR 11
PRACTICE AND PROCEDURE	Application for stay of judgment- no grounds	Koloi v Finau (LC)	2009 TLR 290
PRACTICE AND PROCEDURE	Application for strike out – inordinate and inexcusable delay – unavailability of bank officers – action struck out	Mangisi v Minister of Lands & ors (LC)	2007 TLR 72

PRACTICE AND PROCEDURE	Application for summary judgement- Court found possible defence- application refused	ANZ Banking Group Limited v Ministry of Civil Aviation & ors (SC)	2003 TLR 281
PRACTICE AND PROCEDURE	Application for summary judgment- arguable defence	Eco- Friendz Limited v Island Beverage Limited (SC)	2009 TLR 456
PRACTICE AND PROCEDURE	Application for summary judgment- triable issues	Australian and New Zealand Banking Group Ltd v Tatola (LC)	2009 TLR 49
PRACTICE AND PROCEDURE	Application to amend petition – not bona fide so application refused	Mamata v 'Akolo (SC)	2001 TLR 300
PRACTICE AND PROCEDURE	Application to appeal Court of Appeal decision – not rare circumstances – application dismissed	Tu'ivai v R (CA)	2007 TLR 31
PRACTICE AND PROCEDURE	application to call fresh evidence – dismissed	Cocker v Cocker & ors (SC)	2002 TLR 249
PRACTICE AND PROCEDURE	Application to call fresh evidence – knew at time of trial	Tuaimei'uta v Prema (CA)	2001 TLR 215
PRACTICE AND PROCEDURE	Application to have court orders set aside – court was satisfied that property ordered to be seized did belong to applicant – application set aside	Hoeller v Knab & ors	2007 TLR 84
PRACTICE AND PROCEDURE	Application to set aside a judgment in default of defence – application granted	Jewett Cameron South Pacific Ltd v Tu'uholoaki	1999 TLR 51
PRACTICE AND PROCEDURE	Application to set aside court orders- court was not persuaded	Pohiva & ors v Solomon (CA)	2009 TLR 253
PRACTICE AND PROCEDURE	Application to set aside default judgment	Sevele v Pohiva & ors	2008 TLR 37
PRACTICE AND PROCEDURE	application to set aside default judgment – dismissed	MBf Bank Ltd v Mangisi (SC)	2005 TLR 396
PRACTICE AND PROCEDURE	application to stay writ of execution – stay issued	MBf Bank Ltd v Mangisi (SC)	2005 TLR 396
PRACTICE AND PROCEDURE	Application to strike out – action sufficiently pleaded – not struck out	Shell Company (Pacific Island) Ltd v Bank of Tonga	1999 TLR 106
PRACTICE AND PROCEDURE	application to strike out claim – grounds of no reasonable cause of action and should have been brought by judicial review	Fonua v Tonga Communications Corporation Ltd (SC)	2002 TLR 29
PRACTICE AND PROCEDURE	Application to strike out claim – no proof of claim – application granted	Kaufusi v Kingdom of Tonga (CA)	1999 TLR 118

PRACTICE AND PROCEDURE	Application to strike out defence	Edwards & ors v Senituli & ors (SC)	2009 TLR 386
PRACTICE AND PROCEDURE	Application to strike out defence – court ordered defence be amended – application refused	Edwards v Pohiva (SC)	2000 TLR 3
PRACTICE AND PROCEDURE	Application to strike out defence - refused	Zuvva Company Ltd v Tafolo & ors (LC)	2007 TLR 63
PRACTICE AND PROCEDURE	Application to strike out- no chance of success	Latu for Illegitimation of Birth, Application by (SC)	2009 TLR 262
PRACTICE AND PROCEDURE	Application to strike out- reasonable cause of action- plaintiff had standing	The Church of Jesus Christ of Latter Day Saints in Tonga Trust Board v Fepale & ors (LC)	2009 TLR 258
PRACTICE AND PROCEDURE	Application which affected other parties should not be ex parte	Fresh Exports Ltd v Tonga Co-operative Federation Ltd (SC)	2010 TLR 200
PRACTICE AND PROCEDURE	Applications to strike out for security for cost	Schaumkel v Australia and New Zealand Banking Group Ltd (SC)	2009 TLR 256
PRACTICE & PROCEDURE	Arbitration – award – enforce as judgment	Fletcher Construction & ors v. Montfort Bros	1995 TLR 142
PRACTICE AND PROCEDURE	Arbitration - Award – enforcement – ex parte orders	Fletcher Construction & ors v. Montfort Bros	1995 TLR 142
PRACTICE AND PROCEDURE	civil trial – Criminal conviction – effect of	Flemming v Manu	1997 TLR 196
PRACTICE & PROCEDURE	Claim – Magistrates - splitting claim – void	Croci v. Moa & Fifita	1996 TLR 118
PRACTICE AND PROCEDURE	claim was unclear and unspecific – court ordered amended statement of claim to be filed	Fonua v Tonga Communications Corporation Ltd (SC)	2002 TLR 29
PRACTICE AND PROCEDURE	Commissioners of Oaths	Practice Direction 3/94	1994 TLR 3
PRACTICE AND PROCEDURE	Committals from Magistrates Courts	Practice Direction No. 1/97	1997 TLR 68
PRACTICE AND PROCEDURE	Compensation to relatives of deceased	S. Tu'akoi v. Premiver & Ors.	TLR Vol 1 (1908-1959) 48
PRACTICE AND PROCEDURE	Conflict of Laws - Court entitled to assume that law of Tonga is the same as that of a foreign country unless the contrary is proved	McGregor Consultant and Management Services Ltd v. Kama	1981-1988 TLR 90

PRACTICE & PROCEDURE	Consent order cannot be varied on application of one party only – akin to contract	Vea & Or v Vea & Ors	2016 TLR 278
PRACTICE AND PROCEDURE	costs – Security for costs application	Oceania Printing Technologies Ltd v PSS Ltd (SC)	2009 TLR 250
PRACTICE AND PROCEDURE	costs – Security for costs application- plaintiff strong prima facie case- application dismissed	Fatafehi & ors v Slabon & ors (LC)	2010 TLR 28
PRACTICE AND PROCEDURE	Costs – against the Crown for acquittal - declined	R v Tonga (SC)	2000 TLR 40
PRACTICE AND PROCEDURE	Costs – Crown liability - incompetence	R v Puloka (CA)	2000 TLR 335
PRACTICE AND PROCEDURE	Costs – determination of proportionate liabilities	'Ameleki v Nai (No. 2) (LC)	2000 TLR 258
PRACTICE AND PROCEDURE	Costs – factors in assessment of quantum	'Ameleki v Nai (No. 2) (LC)	2000 TLR 258
PRACTICE AND PROCEDURE	Costs – not regarded as penalty	Attorney General v Ulakai (SC)	2000 TLR 10
PRACTICE AND PROCEDURE	Costs – should be paid by unsuccessful party	Secretary of Fisheries v Lanivia	1999 TLR 179
PRACTICE AND PROCEDURE	Costs – solicitor and client basis – exceptional case	Fonua v MBf Bank Ltd (CA)	2000 TLR 319
PRACTICE AND PROCEDURE	Costs – taxation of – defendant was allowed costs of taxation process	Polynesian Airlines v Kingdom of Tonga (SC)	2000 TLR 145
PRACTICE AND PROCEDURE	Costs – taxation of – scale charges may be exceeded	Polynesian Airlines v Kingdom of Tonga (SC)	2000 TLR 145
PRACTICE AND PROCEDURE	Costs where worthless action – solicitor/own client	Fonua v MBf Bank Ltd	1999 TLR 4
PRACTICE AND PROCEDURE	Counsel made choice instead of appellant	Latu v Police (SC)	2008 TLR 228
PRACTICE AND PROCEDURE	Court – Correct forum – Supreme Court or Land Court – church land and buildings	Free Church of Tonga v. Constitutional Free church of Tonga	1992 TLR 13
PRACTICE AND PROCEDURE	court record – Challenge to accuracy of – needs affidavit evidence – challenge failed	Vaotangi v Vaotangi (SC)	2000 TLR 434
PRACTICE AND PROCEDURE	Creditors' Remedies - application for order of committal for failure to comply with court order – should be last resort	Tonga Development Bank v Loumoli & ors (SC)	2002 TLR 137
PRACTICE AND PROCEDURE	Creditors' Remedies - Application for writ of ne exeat regno - declined	Ramanlal & Sons Company Ltd v Cater	1999 TLR 45

PRACTICE AND PROCEDURE	Creditors' Remedies - Bailiff seized property- judgement debtor non- legal entity- Could still be enforced against individual owners- seized goods could be sold	Pacific Royale Hotel v Tevita Siale Trading As Siale Tyre Shop (SC)	2009 TLR 450
PRACTICE AND PROCEDURE	Creditors' Remedies - Bailiffs – duties do not extend to seizure of company shares	Pozzati v Fumera (SC)	2000 TLR 408
PRACTICE AND PROCEDURE	Creditors' Remedies - default in mortgage payment – dwellinghouse as security – order for possession	Bank of Tonga v Malolo & ors (SC)	2002 TLR 92
PRACTICE AND PROCEDURE	Creditors' Remedies - Liability for costs of bailiff – execution creditor personally liable	Valikoula v Toa (SC)	2000 TLR 397
PRACTICE AND PROCEDURE	Creditors' Remedies - Payment for clear debt – interest ordered	Allied Foods Co. Ltd v Moa (SC)	2000 TLR 279
PRACTICE AND PROCEDURE	Creditors' Remedies - Proof of debt – counterclaim	Pacific Royale Hotel Ltd v Teta Tours (SC)	2001 TLR 306
PRACTICE AND PROCEDURE	Creditors' Remedies - Vehicle seized under writ of distress – question of ownership of vehicle	Fifita v Bailiff Officers	1999 TLR 158
PRACTICE AND PROCEDURE	Creditors' Remedies - Warrant of distress – assignment of chose in action	Vaka'uta v Wong	1998 TLR 93
PRACTICE AND PROCEDURE	Creditors' Remedies - when limitation period started to run – defence failed	Tonga Development Bank v Tapavalu & ors (SC)	2002 TLR 261
PRACTICE AND PROCEDURE	Creditors' Remedies - Writ of distress – ranked according to time of delivery of original	Pozzati v Fumera (SC)	2000 TLR 408
PRACTICE AND PROCEDURE	Criminal law – prosecution – disclosure pretrial	R v Fungavaka & Tapu	1997 TLR 229
PRACTICE AND PROCEDURE	Crown Immunity - Garnishee proceedings	Bank of Tonga v Fotofili	1998 TLR 69
PRACTICE AND PROCEDURE	Debt – Action for against Tongans	H.K. Bennett etc v. Siaosi Maeakafa	TLR Vol 1 (1908-1959) 22
PRACTICE AND PROCEDURE	Debt - Judgment more than five years old – Limitation of Action	S. Mataele & Ors v. The Premier	TLR Vol 1 (1908-1959) 42
PRACTICE AND PROCEDURE	Declaration of hostile witnesses	R v Naupoto	1998 TLR 1
PRACTICE AND PROCEDURE	declaration that Tongan Court had no jurisdiction	Gough Finance Ltd v Westpac Bank of Tonga (SC)	2004 TLR 279

PRACTICE & PROCEDURE	Default judgment – set aside when defendant had no actual knowledge of action – poor office procedure, fraud involved	Apex Insurance v Finau	2012 TLR 112
PRACTICE AND PROCEDURE	Defendants sought various orders – applications opposed	Lanumata v Gardiner & ors (SC)	2008 TLR 118
PRACTICE AND PROCEDURE	Discovery - Documents sought were claimed to be confidential and not relevant – court directed supervised access	Maxam Gold Bank Ltd v Laidlaw Holdings Ltd (CA)	2000 TLR 128
PRACTICE AND PROCEDURE	Discovery - Non-compliance – reflected in costs award	South Pac Builders Supplies Ltd v Naidu (SC)	2001 TLR 33
PRACTICE AND PROCEDURE	Distress – writs of – execution	Practice Direction 3/93	1993 TLR 14
PRACTICE AND PROCEDURE	Distress when goods subject to equitable charge	Bank of Tonga v. ‘Alatini & Muti	1991 TLR 39
PRACTICE AND PROCEDURE	Divorce – adultery – damages – jurisdiction – Magistrates Courts	Fua v Sifa	1997 TLR 136
PRACTICE AND PROCEDURE	divorce – ancillary orders – Divorce Rules 1991	Sugar v. Fatafehi & Taholo	1993 TLR 4
PRACTICE AND PROCEDURE	Divorce rules	Practice Direction 2/93	1993 TLR 13
PRACTICE AND PROCEDURE	Doctor's affidavit late – valid attempt	Piukala v Bank of Tonga (CA)	2001 TLR 210
PRACTICE AND PROCEDURE	Engagement of overseas counsel - taxation of costs	'Uta'atu v. Commodities Board of Tonga (No. 2)	1990 TLR 48
PRACTICE & PROCEDURE	estate – Deceased defendant – joinder	Palavi v. Cocker & Min. of Lands	1996 TLR 246
PRACTICE AND PROCEDURE	Ex parte interim orders made-application to set aside-inappropriate to determine matters on ex parte basis	Saulala & ors v Taumoepeau & ors (SC)	2009 TLR 51
PRACTICE AND PROCEDURE	final orders – ordered to deliver up possession of land	Tukuafu v Latu & ors (CA)	2006 TLR 223
PRACTICE AND PROCEDURE	further evidence not produced – defendant to pay half costs of plaintiff	Fonua v Tonga Communications Corporation Ltd (SC)	2004 TLR 148
PRACTICE AND PROCEDURE	Garnishee proceedings against Kingdom	Bank of Tonga v Fotofili	1998 TLR 69
PRACTICE AND PROCEDURE	Habeas corpus	Re Fakafanua	1998 TLR 57

PRACTICE AND PROCEDURE	injunction – review of	Flyniu Airlines Ltd & ors v HRH Prince 'Ulukalala Lavaka Ata & ors (SC)	2006 TLR 5
PRACTICE AND PROCEDURE	Injunction – high risk of injustice - refused	Fund Management Ltd v Fifita (LC)	2000 TLR 339
PRACTICE AND PROCEDURE	Injunction sought seizing business- doubt as to liability of defendants	Polynesian Limited v Fonua & ors (SC)	2009 TLR 260
PRACTICE AND PROCEDURE	Interim injunction – no writ filed and no undertaking as to damages – court refused	Tonga, Re Application by (LC)	2000 TLR 143
PRACTICE AND PROCEDURE	interim injunction – restraint of publication	Pale v Pohiva & ors (SC)	2006 TLR 148
PRACTICE AND PROCEDURE	Interim order – no grounds for lapse	Vaka'uta v Wong	1998 TLR 93
PRACTICE AND PROCEDURE	Interim order for eviction – no arguable legal basis for occupation – interim order for eviction made	Church of Jesus Christ of Latter Saints in Tonga Trust Board v Toki (LC)	2007 TLR 70
PRACTICE AND PROCEDURE	Interim orders sought- to preserve assets pending resolution	Cho & ors v Hwang & ors (SC)	2009 TLR 473
PRACTICE AND PROCEDURE	interlocutory applications – application to strike out action against one defendant – struck out	Cauchi v Air Fiji & ors (SC)	2005 TLR 154
PRACTICE AND PROCEDURE	interlocutory applications – application to strike out cause of action – Convention was comprehensive code – action struck out	Cauchi v Air Fiji & ors (SC)	2005 TLR 154
PRACTICE AND PROCEDURE	International - Matters of evidence and procedure to be determined by lex fori	McGregor Consultant and Management Services Ltd v. Kama	1981-1988 TLR 90
PRACTICE AND PROCEDURE	International - Matters of evidence and procedure to be determined by lex fori	McGregor Consultant and Management Services Ltd v. Kama	1981-1988 TLR 90
PRACTICE AND PROCEDURE	International - Matters of evidence and procedure to be determined by lex fori	McGregor Consultant and Management Services Ltd v. Kama	1981-1988 TLR 90
PRACTICE AND PROCEDURE	Interpleader proceedings to set aside default judgment	Tonga Development Bank v Carafa (SC)	2001 TLR 260

PRACTICE AND PROCEDURE	interrogatories – Inadequate answers to – if plaintiff did not answer adequately action would be struck out	Moore Electronic Company Ltd v National Pacific Insurance Company Ltd (SC)	2000 TLR 6
PRACTICE AND PROCEDURE	issue raised – should not be excluded because of technicality of pleadings	FC Nichols (Proprietary) Ltd v Bloomfield (SC)	2006 TLR 28
PRACTICE AND PROCEDURE	Joinder of 3rd party	Kaitapu v ANZ	2011 TLR 27
PRACTICE AND PROCEDURE	judge – Application for change of - considerations	Lali Media v Lavaka Ata & ors (SC)	2003 TLR 114
PRACTICE AND PROCEDURE	Judgment – deceased defendant	Makoni & Niu v. Kaloamatangi	1995 TLR 127
PRACTICE AND PROCEDURE	Judgment – delivery of goods – previous judgment - res judicata	Bank of Tonga v Kolo Kolo v Bank of Tonga	1997 TLR 178 1997 TLR 181
PRACTICE AND PROCEDURE	Judicial Notice - Finder of fact may not act on personal knowledge	Hurrell v Naufahu & ors (CA)	2009 TLR 319
PRACTICE AND PROCEDURE	Judicial review – affidavits – cross examination	Taumoepeau v Tonga Water Board	1997 TLR 169
PRACTICE AND PROCEDURE	judicial review – Claim for - previously refused – appeal dismissed	Faleola v Kingdom of Tonga (CA)	1999 TLR 114
PRACTICE AND PROCEDURE	judicial review – Claim for - previously refused – claim struck out	Faleola v Kingdom of Tonga	1998 TLR 243
PRACTICE & PROCEDURE	Judicial review – default judgement – appeal	Croci v. Moa & Fifita	1996 TLR 118
PRACTICE AND PROCEDURE	judicial review – strong case made out	Puloka & ors v Kingdom of Tonga (SC)	2006 TLR 397
PRACTICE AND PROCEDURE	judicial review application – cross-examination	Ha'angana v Kingdom of Tonga (SC)	2006 TLR 321
PRACTICE AND PROCEDURE	judicial review- Suspension and dismissal of prison warder- not public law	'Asitomani v Superintendent of Prison (SC)	2003 TLR 84
PRACTICE AND PROCEDURE	Judicial review was new and separate action	Minister of Lands and Nai	1999 TLR 135
PRACTICE AND PROCEDURE	jurisdiction – Amount claimed beyond Magistrate's – Duty of Magistrate	T. Palu v. L.T. Palu	TLR Vol 1 (1908-1959) 53
PRACTICE AND PROCEDURE	Jurisdiction – Lack of – but issue raised and argued	Prasad v. Morris Hedstron (Tonga) Ltd (No.2)	1993 TLR 69

PRACTICE AND PROCEDURE	jurisdiction – Question of – did not involve land – involved movable property	Tu'ipulotu v Rosic & ors (SC)	2008 TLR 273
PRACTICE & PROCEDURE	jurisdiction – Serve outside – leave	Lindsay-Smith v. SPAFH & ors	1996 TLR 54
PRACTICE AND PROCEDURE	Jury selection- avoiding bias- may attract other perception of bias	R v Pohiva (SC)	2003 TLR 69
PRACTICE AND PROCEDURE	King in person immune from all actions, civil or criminal in all courts	Aleamotu'a v Fielakepa	2015 TLR 556
PRACTICE AND PROCEDURE	leave to apply for judicial review	Flyniu Airlines Ltd & ors v Faletau & ors (SC)	2006 TLR 1
PRACTICE AND PROCEDURE	Leave to apply for judicial review of dismissal – employment governed by contract – leave refused; private rights re dismissal should not be pursued in JR proceedings	Vaioleti v Tonga Development Bank	1999 TLR 57
PRACTICE AND PROCEDURE	Leave to commence action out of time – legislation clear to refused	His Royal Highness Prince Lavaka v Tafolo (LC)	2000 TLR 363
PRACTICE AND PROCEDURE	Legislative Assembly - inquiry into opening of	Lasike & ors v Noble Tu'iha'angana & ors (SC)	2006 TLR 161
PRACTICE AND PROCEDURE	limitation – Claim was out of time- limitation defence applied	Manu v Tonga Development Bank (CA)	2003 TLR 261
PRACTICE AND PROCEDURE	Limitation of action – Distress Warrant – judgment more than 5 years old – action against Government – Liability of Magistrate	S. Mataele & Ors. v. The Premier	TLR Vol 1 (1908-1959) 42
PRACTICE AND PROCEDURE	Magistrate's signature on summons is purely administrative – not a conflict	Taufa v Police Department (SC)	2000 TLR 121
PRACTICE AND PROCEDURE	Marine Enquiry -Court of – Defendant challenged findings and claimed bias and failure of natural justice	Walter Trading Company Ltd v Ports Authority	2008 TLR 7
PRACTICE AND PROCEDURE	Marine Inquiry made costs order – no power to award costs	Uata & ors v Kingdom of Tonga (SC)	2006 TLR 205
PRACTICE AND PROCEDURE	memorandum of judgment by consent	Pasili v Tonga Development Bank (CA)	2004 TLR 207

PRACTICE AND PROCEDURE	Motion to strike out – verbose statement of claim – motion denied	Masila v Helu	1999 TLR 206
PRACTICE AND PROCEDURE	No case to answer submission	Fukofuka v Peacock (SC) R v Tauelangi (SC)	2001 TLR 86 2001 TLR 266
PRACTICE AND PROCEDURE	No evidence in crucial areas – new trial ordered	Tafolo v Vete	1998 TLR 164
PRACTICE AND PROCEDURE	No requirement of signing indictments under constitution – no reason to import English rules (later practice direction now requires signature); A procedural defect in an indictment is generally able to be corrected and is not a nullity	R v Dalgety	2011 TLR 31
PRACTICE AND PROCEDURE	Non appearance – struck out – reinstatement	Tonga v. Langi	1994 TLR 77
PRACTICE AND PROCEDURE	Non-compliance with 'unless' order – time extended	Hoeller v Knab (SC)	2001 TLR 48
PRACTICE AND PROCEDURE	Notice of Motion for contempt of court – insufficient evidence	Attorney-General v Saulala & ors (SC)	2001 TLR 110
PRACTICE AND PROCEDURE	Order sought for release of bus from repairer- contract issue to be resolved	Tu'ivai v Nalesoni & ors (SC)	2009 TLR 458
PRACTICE AND PROCEDURE	Parties reached agreement	Fusitu'a v Honourable Tuita (CA)	2009 TLR 381
PRACTICE & PROCEDURE	pleadings – Amendment of	Practice Direction No.1/95	1995 TLR 1
PRACTICE AND PROCEDURE	pleadings – Parties bound by	Hurrell v Naufahu & ors (SC)	2009 TLR 319
PRACTICE AND PROCEDURE	Pleadings – amendment – principles	Taumoepeau & others v. Pohiva	1994 TLR 12
PRACTICE AND PROCEDURE	Pleadings did not identify person or body that had malice – struck out	Kaufusi v Kingdom of Tonga (SC)	1999 TLR 28
PRACTICE AND PROCEDURE	Pleadings did not raise an issue but parties argued the issue – technical matter only and court can deal with the issue	'Uta'Atu v Naufahu	2013 TLR 64
PRACTICE AND PROCEDURE	Power to order stay of criminal process – power could be invoked after conviction	R v Fiu	1999 TLR 189
PRACTICE AND PROCEDURE	Preliminary questions – not appropriate	Tu'I'onetoa v Pohiva (SC)	2000 TLR 337

PRACTICE AND PROCEDURE	Proceedings in Supreme Court should be commenced by writ of summons	Market Authority v. Mataele	TLR 1974-1980 103
PRACTICE AND PROCEDURE	Prosecutors duties – criminal case	Tauvaka v Police	1997 TLR 164
PRACTICE AND PROCEDURE	recover loan money- Claim to – no economic duress found	Australia and New Zealand Banking Group Ltd v ‘Aukafolau & ors (SC)	2009 TLR 221
PRACTICE AND PROCEDURE	Replacement of one charge with another – same evidence	R v Lavakei’aho	1998 TLR 89
PRACTICE AND PROCEDURE	Retrospective – powers of Chief Justice	President & Trustees of ‘Tonga Ma’a Tonga Kautala	TLR Vol 1 (1908-1959) 9
PRACTICE AND PROCEDURE	Senior Counsel	Practice Direction 1/94	1994 TLR 1
PRACTICE AND PROCEDURE	Service of documents – certificate of service	Practice Direction 1/93	1993 TLR 12
PRACTICE AND PROCEDURE	Service of documents – should follow directions	Bank of Tonga v Hautau	1999 TLR 224
PRACTICE AND PROCEDURE	Setting aside interim order – damages would be sufficient remedy – order set aside	Pacific Vendors Ltd v United States of America (SC)	2000 TLR 27
PRACTICE AND PROCEDURE	Sovereign Immunity - Immunity of state – commercial transactions – restrictive theory	Lindsay-Smith v. S.P.A.F.H. & ors	1996 TLR 54
PRACTICE AND PROCEDURE	Sovereign State Immunity - Common law principles of sovereign immunity applicable	Tu’itavake v. Porter, Government of Australia and Attorney General	1989 TLR 14
PRACTICE AND PROCEDURE	statement of claim – ill-drafted parts struck out	Paea v Prisons Court of Inquiry & ors (SC)	2002 TLR 265
PRACTICE AND PROCEDURE	stay of execution application	AJ & E Ltd v FC Nichols (Wholesales) Ltd (CA)	2006 TLR 78
PRACTICE AND PROCEDURE	Strike out application – abuse of process – should have brought judicial review proceedings	Tapueluelu v Soakimi (SC)	2001 TLR 105
PRACTICE AND PROCEDURE	Strike out application – all claims already decided or disclose no cause of action - granted	Tu’ivai v Ki ngdom of Tonga (SC)	2007 TLR 277
PRACTICE AND PROCEDURE	Strike out application – arguable case	Latu & ors v Tohi (SC)	2008 TLR 34
PRACTICE AND PROCEDURE	strike out application – based on delay	Fresha Export Ltd v Maseia Holdings Co Ltd (SC)	2006 TLR 82

PRACTICE AND PROCEDURE	Strike out application – cause of action disclosed – application refused	Ika v Tuli (SC)	2000 TLR 375
PRACTICE AND PROCEDURE	Strike out application – did not involve land – involved movable property	Havili v Tonga Development Bank & ors	2008 TLR 5
PRACTICE AND PROCEDURE	strike out application – grounds of non-compliance with peremptory order	Gateway Enterprises Ltd v Vao Kakala Holdings Ltd (SC)	2002 TLR 130
PRACTICE AND PROCEDURE	strike out application – opportunity to amend pleadings	Skeen v Sovaleni & ors (LC)	2005 TLR 298
PRACTICE AND PROCEDURE	Strike out application – whether English legislation applies in Tonga	Tukuafu v Siakumi	1999 TLR 1
PRACTICE AND PROCEDURE	strike out application based on O 8, RR 6(1)(i) and (iii)	Tahaafe & ors v Tea & ors (SC)	2002 TLR 13
PRACTICE AND PROCEDURE	Strike out application- hopeless cause of action- struck out	Faingata'a v Westpac Bank of Tonga (SC)	2010 TLR 63
PRACTICE AND PROCEDURE	Strike out application- malicious prosecution- time ran from when the loss arose application dismissed	To'a v Lutu & ors (SC)	2010 TLR 44
PRACTICE AND PROCEDURE	Strike out application- no cause of action disclosed- action was struck out	Afu v Dalgety	2003 TLR 154
PRACTICE AND PROCEDURE	Striking out defence – failure to allow further time – failure to consider all defences & give reasons	Free Wesleyan Church of Tonga v. Fua & Lawton	1992 TLR 21
PRACTICE AND PROCEDURE	Subpoenaed Clerk to Privy Council to produce – Refusal – Powers of Supreme Court.	J.B. Watkin & Ors. v. Setaleki Manu & Ors	TLR Vol 1 (1908-1959) 30
PRACTICE AND PROCEDURE	Summary judgment application in Land Court- unnecessary to decide whether Land Court had power	Australia and New Zealand Banking Group Ltd v Tatola (LC)	2009 TLR 49
PRACTICE AND PROCEDURE	Summary trial – bodily harm – preliminary enquiry – jurisdiction	Hu'ahulu & another v. Police	1994 TLR 93
PRACTICE AND PROCEDURE	Summons need not contain precise date	Taufa v Police Department (SC)	2000 TLR 121
PRACTICE & PROCEDURE	Supreme court – full court – important issue	Primary Produce Exports v. Masima	1996 TLR 234
PRACTICE & PROCEDURE	Supreme Court has power to order garnishment of wages	ANZ v Paunga	2011 TLR 64
PRACTICE AND PROCEDURE	Supreme Court Jurisdiction	Tu'ipuloto v. Ma'afu	1994 TLR 125
PRACTICE AND PROCEDURE	Taxation of costs	Sanft & Sons v. Johnson	1991 TLR 1

PRACTICE AND PROCEDURE	time – Computation of – Interpretation Act – when time runs and is complete	R. v. Geesteranus	1992 TLR 32
PRACTICE AND PROCEDURE	Time extension to file affidavits	Attorney-General v Moala and & ors (SC)	2001 TLR 144
PRACTICE AND PROCEDURE	Trial – crime - delay	R v Filimoehala	1997 TLR 140
PRACTICE AND PROCEDURE	Trial – summary – exclusion of defendants	Sikuea & Akau'ola v Police	1997 TLR 190
PRACTICE AND PROCEDURE	'Unless' order not complied with – not extended	Fonua v Yeoh (SC)	2000 TLR 437
PRACTICE & PROCEDURE	Venue in Tonga or overseas? Court has jurisdiction if defendants are in Tonga but discretion in Judge to order stay if more appropriate for foreign court to proceed; German law	Wolf v Strauss	2011 TLR 102
PRACTICE AND PROCEDURE	verbal settlement of action claimed – not proved	Sevele v Saulala (SC)	2005 TLR 250
PRACTICE AND PROCEDURE	vicarious liability – Whether action for available in Tonga – claim possible	Tukuafu v Siakumi	1999 TLR 1
PRACTICE AND PROCEDURE	Writ of distress	Practice Direction No.2/95	1995 TLR 2

PRISONS

PRISONS	Calculation of early release date – burden of proof for each element	Ta'ufo'ou v Prisons Department (SC)	2001 TLR 7
PRISONS	Calculation of release date – started on the day after commitment order	Fifita and Naitoko v Minister of Police (SC)	2001 TLR 18
PRISONS	Place of detention – police cells not ultra vires detention order	Fifita and Naitoko v Minister of Police (SC)	2001 TLR 18
PRISONS	unlawful punishment – escape from custody – duress of circumstances	Tapa'atoutai & ors v Police (SC)	2004 TLR 108

PROBATE AND ADMINISTRATION

PROBATE AND ADMINISTRATION	Alteration of Letters of Administration by Court – Limitation of Action – Tongan custom	I.Tu'ivai v. S. Matangi	TLR Vol 1 (1908-1959) 67
PROBATE AND ADMINISTRATION	Donatio mortis cause – proof of promise – customary adoption	Faletau v 'Akau'ola	1997 TLR 185
PROBATE AND ADMINISTRATION	Effect of deed of settlement upon administration of estate	Teta Co. Ltd. v. Finau, Finau, and Minister of Lands	TLR 1974-1980 64
PROBATE AND ADMINISTRATION	Limitation period runs from date of grant of letters of administration	Tukuafu v. Kongaika and Tafea	TLR 1974-1980 10
PROBATE AND ADMINISTRATION	Lost will – Letters of Administration revoked – Validity of unfilled will	M. Tupou & Ors v. Fotu	TLR Vol 1 (1908-1959) 40
PROBATE AND ADMINISTRATION	Possession evidence of ownership:	Sandys v. Otukolo	TLR Volume II (1923-1962) 200
PROBATE AND ADMINISTRATION	Will - challenge to validity – sought Court's determination of legal interest in assets	Holameitonga v Taimani & ors (SC)	2004 TLR 41
PROBATE AND ADMINISTRATION	Will - Executor's duties-obligation to beneficiary	Fonua v Taufateau (CA)	2003 TLR 179
PROBATE AND ADMINISTRATION	Will – No amplification – Order for payment	Re H. Warren Watkin Decd	TLR Vol 1 (1908-1959) 17
PROBATE AND ADMINISTRATION	Will - Principles of interpretation	Leger v Niu	1989 TLR 11
PROBATE AND ADMINISTRATION	Will not revoked by subsequent marriage	A. Niu & Ors v. L. Fifita	TLR Vol 1 (1908-1959) 36
PROBATE AND ADMINISTRATION	Wrongful intermeddling with estate by parties	Fakafanua & ors v Fakafanua & ors (LC)	2008 TLR 120

SENTENCING

SENTENCING	Abetment of theft – guilty plea – young, first-time offender	R v Patelesio	2008 TLR 62
SENTENCING	Apology & reconciliation – disparity	Ta'ani v. Police	1994 TLR 84
SENTENCING	Appeal – increased sentence – no cross appeal – double jeopardy	Spoutz v Police (No. 2)	1997 TLR 148

SENTENCING	Appeal against embezzlement sentence – plea of guilty	Wall v R (CA)	2001 TLR 238
SENTENCING	appeal against sentence sentence not excessive – appeal dismissed	Taufa v R (CA)	2005 TLR 330
SENTENCING	appeal against sentence earlier offending taken into account – appeal allowed	Sefo & ors v R (CA)	2005 TLR 335
SENTENCING	appeal against sentence high degree of provocation – appeal allowed	Tu'itavake v R (CA)	2005 TLR 348
SENTENCING	Appeal against sentence – guilty plea	Matekuolava v R (SC)	2001 TLR 276
SENTENCING	Appeal against sentence – not all mitigating factors taken into account – period of suspension increased	Tu'i'ile'ila v R (CA)	2007 TLR 131
SENTENCING	Appeal against sentence – not enough credit given to mitigating factors – sentence reduced	Tui v R (CA)	2007 TLR 135
SENTENCING	Appeal against severity of sentence – assault	Vea v Police (SC)	2001 TLR 281
SENTENCING	Appeal against severity of sentence – custodial sentence too severe	Prescott v Police (SC)	2001 TLR 317
SENTENCING	Appeal against severity of sentence – no understanding of Tongan language	Narayan v Police (SC)	2001 TLR 270
SENTENCING	appeal that excessive sentence	Malafu v R (CA)	2002 TLR 244
SENTENCING	application for stay of sentence and bail pending appeal – application refused	Taufa v R (CA)	2005 TLR 134
SENTENCING	Armed robbery etc; starting point 7 years; here mitigating and aggravating factors cancel out so sentence reduced to 7 yrs	Makafilia v R	2014 TLR 72
SENTENCING	Armed robbery, 5 years (2 suspended)	Longani v R	2014 TLR 104
SENTENCING	Binding over – power to order; Judge must give reasons before making coercive orders	R v 'Unga	2011 Tonga LR 38
SENTENCING	Bodily harm	R v Talivakaola	1997 TLR 1
SENTENCING	Bodily harm and housebreaking – guilty plea – three accused	R v Tomasi & ors	2008 TLR 47

SENTENCING	bodily harm on wife – guilty of - sentence of imprisonment as deterrent	R v Fatani (SC)	2004 TLR 351; 2005 TLR 470
SENTENCING	Carnal knowledge of girl under 12 – early guilty plea	R v Hu'akau	2008 TLR 64
SENTENCING	Causing bodily harm – injuries – weapons	Hu'ahulu & another v. Police	1994 TLR 93
SENTENCING	Common assault and indecent exposure- sentence harsh and excessive- quashed and replaced with suspended sentence	Moli c Police (SC)	2010 TLR 183
SENTENCING	Company convicted of manslaughter and fined $1m – upheld	Shipping Corp of Polynesia v R	2011 TLR 109
SENTENCING	Concurrent sentences total more than maximum penalty- miscalculation	Mataele v Police (SC)	2003 TLR 44
SENTENCING	Contempt of Court – administration of Justice	Attorney General v Fusitu'a, Akau'ola, Moala Attorney General v 'Akau'ola	1997 TLR 18 1997 TLR 36
SENTENCING	Contempt of court – penalties	Attorney General v. Moala (No.2)	1996 TLR 164
SENTENCING	Contempt of court, Independence of Magistrate attacked, fine of $2,500 for editor and $500 for publisher – need to assess each offender	Tapueluelu v R	2014 TLR 84
SENTENCING	Conviction during period of suspension – question whether Supreme Court had jurisdiction on subsequent offence – ruled that it did	R v Vete (SC)	2007 TLR 212
SENTENCING	Counterfeit offences – two accused – guilty pleas – one was first offender	R v Ali & ors (SC)	2008 TLR 257
SENTENCING	Crown appeal against fine imposed – forgery – non-custodial sentence	R v Naidu (CA)	2001 TLR 229
SENTENCING	Cumulative for unrelated offences- replaced with concurrent	Hokafonu v R (CA)	2003 TLR 249
SENTENCING	factors to take into account	R v Vete & ors (SC)	2004 TLR 273
SENTENCING	Fine should be within ability of offender to pay – fine reduced	R v Polelei	1999 TLR 110

SENTENCING	Firearms offences – little need for personal deterrence	R v Kohinoa	2008 TLR 41
SENTENCING	First offender – repeat offender	Mafi & Latu v. R.	1991 TLR 53
SENTENCING	Fish licencing offences – found guilty at trial – naïve amateur operator	R v Finau (SC)	2008 TLR 106
SENTENCING	Forgery – delay – guilty plea through trial	R v Fonokalafi	1997 TLR 138
SENTENCING	Forgery and conspiracy to commit forgery – guilty pleas, no prior convictions – imprisonment terms suspended	R v Paeamoelotu & ors (SC)	2007 TLR 114
SENTENCING	Fraud and forgery- guilty plea- 2 ½ years imprisonment	R v Taufa (SC)	2009 TLR 462
SENTENCING	Grievous bodily harm – guilty plea – prior conviction	R v Mohokoi (SC)	2008 TLR 111
SENTENCING	Grievous bodily harm and attempted robbery- 18 years total imprisonment- revoked and replaces with 8 years imprisonment	R v Langi (SC)	2009 TLR 342
SENTENCING	Housebreaking	Sailosi v. R.	1991 TLR 51
SENTENCING	Housebreaking and theft – 13 years –old accused pleaded guilty	R v Valu	2008 TLR 44
SENTENCING	Housebreaking and theft – early guilty plea – habitual offender	R v Takai (SC)	2008 TLR 86
SENTENCING	Housebreaking and theft – guilty plea – young, first-time offender	R v Launga	2008 TLR 54
SENTENCING	Housebreaking and theft charges – early guilty plea and first offences – 3 year suspended sentence	R Niutupuua (SC)	2007 TLR 231
SENTENCING	Importation and possession of illicit drugs- methamphetamine- imprisonment	R v Kata (SC)	2010 TLR 54
SENTENCING	Importing and possession of drugs – no remorse – imprisonment 6 years for importation; 3 years for possession	R v Puloka (SC)	2007 TLR 223
SENTENCING	Imprisonment of careless driving- appeal allowed and sentence suspended	Vaea v Police (SC)	2003 TLR 74
SENTENCING	Imprisonment should be used in default of payment rather than as substitute	Vaiangina v Police (SC)	2000 TLR 360

SENTENCING	Incest- guilty plea- imprisonment and divesting of authority over his daughter	R v Tu'ifua (SC)	2010 TLR 80
SENTENCING	indecent assault on child – imprisonment imposed for public safety and as deterrent	R v Savieti (SC)	2005 TLR 473
SENTENCING	indecent assault on child – imprisonment imposed for public safety and as deterrent	R v Savieti (SC)	2004 TLR 354
SENTENCING	Indecent assault on child less than 12 years old – early guilty plea - 18 months imprisonment and final 6 months suspended	R vTaulanga (SC)	2007 TLR 141
SENTENCING	Infanticide & concealing birth	Kitekei'aho & Tonga v. R.	1991 TLR 46
SENTENCING	manifestly excessive	Hoko v Police (SC)	2004 TLR 84
SENTENCING	manslaughter – considerations in suspending sentence of imprisonment	R v Saafi (SC)	2004 TLR 250
SENTENCING	Manslaughter – diminished responsibility	R v Puli'uvea	1997 TLR 40
SENTENCING	Manslaughter – secondary offender	Kitekei'aho & Tonga v. R.	1991 TLR 46
SENTENCING	Manslaughter by negligence	Fisi'inaua v. R	1995 TLR 62
SENTENCING	Manslaughter by negligence – drinking and driving – early guilty plea	R v Vunipola	2008 TLR 57
SENTENCING	Manslaughter of son- severe punishment- 15 years imprisonment	R v Talia'uli (SC)	2010 TLR 203
SENTENCING	Manslaughter; suspicion of infidelity not a mitigating factor; start at 15 years for cruelty	R v Taufahema	2016 TLR 12
SENTENCING	Manslaughter of wife, very brutal, starting point 14 years, with mitigation 10 years	Vaomotou v R	2014 TLR 62
SENTENCING	mental illness – mitigating factor	R v Taufa (SC)	2005 TLR 466
SENTENCING	mental illness – mitigating factor	R v Taufa (SC)	2004 TLR 347
SENTENCING	Mitigating factors had too much weight – too lenient	R v Holani (CA)	2001 TLR 161
SENTENCING	Motor Manslaughter - disqualification	R v Taufa	1997 TLR 14

SENTENCING	Multiple offences – dealt with separately	R v Tokai	1997 TLR 142
SENTENCING	murder conviction – life imprisonment	R v Vola (SC)	2005 TLR 404
SENTENCING	No power to award part of fines to unaffected bodies (eg Womens Crisis Centre); large fines against company – must look at ability to pay	Shipping Corp. v R	2011 Tonga LR 109
SENTENCING	Not guilty plea - no reduction in sentence	R v Naupoto	1998 TLR 1
SENTENCING	Perjury admitted – considerations in sentencing	R v Uluilakepa	1999 TLR 166
SENTENCING	Police officer- convicted of bodily harm and assault- imprisonment with suspension of part	R v Toki (SC)	2010 TLR 39
SENTENCING	Possession of arms and ammunition- suspended imprisonment and $10,000 fine- appeal against $10,000 fine- reduced to $3,000	Liou v R (CA)	2010 TLR 181
SENTENCING	Possession of illicit drugs- small amount- fine	R v Hufanga (SC)	2010 TLR 206
SENTENCING	Possession of marijuana – guilty plea, first offence, and remorseful – 18 months imprisonment with the final 9 months suspended for two years	R v Leua (SC)	2007 TLR 234
SENTENCING	Possession of marijuana – quantity a factor in sentencing	Uaisele v Police (SC)	2001 TLR 39
SENTENCING	Possession of pistols and ammunition	R v Talia'uli	1997 TLR 7
SENTENCING	Power of Magistrates' Court to forward to Supreme Court	R v Fangatau (SC) R v Talia'uli (SC)	2003 TLR 1 2003 TLR 52
SENTENCING	Probation - when appropriate	Pohiva v Lasike	1997 TLR 246
SENTENCING	Proper allowance should be made for reparation (embezzled money repaid) – discount of 25% approved	Kaufusi v R	2014 TLR 252
SENTENCING	Rape – factors – tariff	Fa'aoso v. R	1996 TLR 42
SENTENCING	Rape – sleeping complainant	R v Holani	1997 TLR 11
SENTENCING	Rape and indecent assault by police officer in police station – seven years imprisonment for rape, two years for assault	R v Fungavai (SC)	2007 TLR 202

SENTENCING	Rape of feeble minded woman, manifestly excessive, reduced from 13 to 5 years; need to protect but 6 years starting point	Hu'ahulu v Rex	2014 TLR 249
SENTENCING	Rape, starting point 5 years, with aggravation here, 8 years	Latu v R	2014 TLR 75
SENTENCING	Rape, starting point 5 years, with aggravation here, 8yrs appropriate	R v 'Aisea	2012 TLR 26
SENTENCING	Re Ashika sinking, relationship between co-defendant's sentences considered	Jonesse v Crown	2011 TLR 89
SENTENCING	Riot cases – considerations – seven accused	R v Tafolo & ors (SC)	2008 TLR 23
SENTENCING	Riot offences – three accused found guilty	R v Letisi (SC)	2008 TLR 223
SENTENCING	Riotous assembly and beginning to demolish a building – three years imprisonment for riotous assembly and seven years for demolition of building with no suspension	R v Kali (SC)	2007 TLR 156
SENTENCING	Sentence imposed for offences against the Drugs and Poisons Act – not excessive	Tuita v R	1999 TLR 152
SENTENCING	Sexual offence, very brutal, starting point 4 years, one continuous attack so separate offences (attempted rape, indecent assault etc) don't require consecutive sentences, with aggravation 7 ½ years	Langi v R	2014 TLR 100
SENTENCING	Suspended sentence – youth – subsequent offending	R v Heleta	1997 TLR 158
SENTENCING	Suspended sentence inadequate – manslaughter by negligence	R v Tofavaha (CA)	2000 TLR 316
SENTENCING	Suspended sentence inadequate – sexual offence	R v Motulalo (CA)	2000 TLR 311
SENTENCING	Suspended sentence triggered	Fifita v R (CA)	2000 TLR 289
SENTENCING	Suspension of custodial sentence – criteria	Tukuafu v Police (SC)	2001 TLR 151
SENTENCING	Suspension of imprisonment – first property offences	'Eukaliti v. Police	1994 TLR 80
SENTENCING	Theft as a servant – first offender but repeat offending	Lausi'i & Tauki'uvea v. R.	1991 TLR 55
SENTENCING	theft of goods – activation of suspended sentence for previous offence – "special circumstances"	R v Kengike (SC)	2005 TLR 400

SENTENCING	Trafficking and keeping brothel, on appeal sentence part suspended	Liu v R	2011 TLR 92
SENTENCING	Whether sentencing provisions are retrospective	R v Fakauho (SC)	2000 TLR 50

STATUTORY INTERPRETATION

STATUTORY INTERPRETATION	"Retrospective" meaning considered, normal meaning of "born" applied	R v Schaumkel	2012 TLR 94
STATUTORY INTERPRETATION	Amendment did not affect rights already acquired	Minister of Lands v Nai	1999 TLR 135
STATUTORY INTERPRETATION	Civil Law Act - Application in Tonga of English statutes: Guardianship of Minors Act 1971, England	Muller v. Muller	1981-1988 TLR 107
STATUTORY INTERPRETATION	Civil Law Act – Constitution and other laws silent on a point, so Civil law Act relied on to import common law of England	Fotofile v Siale	1996 TLR 227
STATUTORY INTERPRETATION	cl. 99 of Constitution – "may" in this context means "shall" – even where these words were both used in the same clause	Tupou v Saulala & ors (SC)	2004 TLR 158
STATUTORY INTERPRETATION	common law rights, abolition of – Construction of statute	Spoutz v Police (No. 2)	1997 TLR 148
STATUTORY INTERPRETATION	Common law rules	Schafer-Macdonald v Health Practitioners Reg. Council & Kingdom	1997 TLR 69
STATUTORY INTERPRETATION	Constitution – principles	Touliki Trading v. Fakafanua (No.2)	1996 TLR 145
STATUTORY INTERPRETATION	Deport; extradite, meaning discussed	Pedras v PM and ors	2014 TLR 217 and 205
STATUTORY INTERPRETATION	English and Tongan version of legislation different	R v Lata & ors (SC)	2006 TLR 143
STATUTORY INTERPRETATION	Is the superintendent a prison officer? – commonsense approach	Edwards v Fifita	1999 TLR 75
STATUTORY INTERPRETATION	Judicial discretion removed where "shall" used – mandatory fine	R v Fiu	1999 TLR 189
STATUTORY INTERPRETATION	Meaning of "shall" – court has inherent power to reduce fine where unjust	R v Polelei	1999 TLR 110
STATUTORY INTERPRETATION	Offence of abetting – words all read together	R v Funaki	1999 TLR 256

STATUTORY INTERPRETATION	Penal act should be interpreted strictly	R v Fatani (SC)	2003 TLR 278
STATUTORY INTERPRETATION	Presumption against retrospectivity, effect discussed and not applied	Tu'Ifua v PST	2016 TLR 105
STATUTORY INTERPRETATION	procedural amendments to an Act take effect immediately and affect actions in progress	R v Faletau, Tu'Ivai, Vakalahi and ors.	Supreme Court AM 8/2013; 5 July 2013
STATUTORY INTERPRETATION	Purposive approach taken to cl 65 of Constitution; debt "outstanding", "payable"	Tapueluelu v AG	2016 TLR 149
STATUTORY INTERPRETATION	Reference in a contract to an Act was held to be a reference to that Act as amended from time to time, not as at date of contract	PSC v Fukofuka	2014 TLR 89
STATUTORY INTERPRETATION	Regulations not made as Act required – question is are such regulations so fundamental that without them the provisions of Act are inoperative – intent of legislature; here not necessary;	Finau v Ministry of Lands	2012 TLR 127
STATUTORY INTERPRETATION	Retrospective – meaning of term - presumption against, when and how applies	Crown v Schaumkel	2012 TLR 94
STATUTORY INTERPRETATION	State Immunity Act 1978 UK applicable in Tonga	Tu'itavake v. Porter, Government of Australia and Attorney General	1989 TLR 14
STATUTORY INTERPRETATION	Time requirements are usually mandatory; the exact time specified in Electoral Act was to be strictly applied; – intention of Act test preferred to former distinction between mandatory and directory requirements	Supervisor of Elections v Tupouniua	November 2014 Ct of Appeal

TAX

TAX	Bonus deducted – tax deduction claimed – arrangement analysed	Jones Industries Ltd & ors v Commissioner of Revenue (TT)	2008 TLR 77
TAX	Customs - allegation of illegal sale of duty free goods – not proven	R v Taufa (SC)	2004 TLR 1
TAX	Customs - Defrauding the revenue – appeal against sentence	R v Fiu	1999 TLR 189

TAX	Customs - Defrauding the revenue - sentencing	R v Polelei	1999 TLR 110
TAX	Customs - short levy on customs duties – understatement of value of cars – judgment for plaintiff	Chief Commissioner of Inland Revenue v Lafi Motors & ors (SC)	2005 TLR 131
TAX	Defrauding the revenue of duty – appeal against sentence	Vakameitangake v R	1998 TLR 141
TAX	Icome Tax - Notice of assessment – should contain time within which to object	Commissisoner of Inland Revenue v National Pacific Insurance (SC)	2000 TLR 392
TAX	Income Tax - Claims - S76 Magistrates' Court not applicable Particulars to be included in claim for possession	Commissioner of Inland Revenue v. To'ofohe	1990 TLR 181
TAX	When taxpayer incurred liability – when Commissioner issued assessment	Commissioner of Inland Revenue v Loto'aniu (SC)	2007 TLR 273

TORT

TORT	Animals - Trespass by – killing of – duties of owner, finder	Lonitenisi v Tu'i'onetoa	1997 TLR 242
TORT	Architect – negligence - standard	Montfort Bros v Jaimi	1997 TLR 251
TORT	Assault – false imprisonment - damages	Manu & Kingdom of Tonga v Muller	1997 TLR 192
TORT	Assault - no necessity for prior police prosecution Quantum of damages	Small v. Vete	TLR Volume II (1923-1962) 219
TORT	Breach of confidence - Conditions on which actionable – relief obtainable	Tonga Development Ban v. Pohiva	1992 TLR 69
TORT	Breach of statutory duty – water supply – damages	Hamilton v. Tonga Water Board	1995 TLR 85
TORT	Claim against police- unlawful arrest, false imprisonment, and assault	To'a v Inu & ors (SC)	2009 TLR 57
TORT	claim against the Government	Sanft v. Minister of Police & Ors.	TLR Volume II (1923-1962) 211
TORT	Claim of malicious prosecution – burden on plaintiff – particulars – burden not discharged	Kaufusi v Kingdom of Tonga (CA)	1999 TLR 118

TORT	Conversion of boat- boat sold to second defendant- claim proved- damages awarded	Vaitulala v Cook & ors (SC)	2010 TLR 1
TORT	Conversion of goods – joint venture	James v Bank of Tonga	1997 TLR 54
TORT	Damage to growing crops – permissive occupancy – Rights of occupier	S. Latiume v. S. Manu	TLR Vol 1 (1908-1959) 115
TORT	Damage to growing crops – trespass to land not trespass to goods	Fuimaono & ors v Vaingalo (SC)	2008 TLR 68
TORT	Deceit - elements of liability	Ackerman v. Muti	1990 TLR 23
TORT	Defamation – can be publication to one person only	Lasalosi v Hausia (SC)	2000 TLR 415
TORT	False imprisonment – calculation of release date from prison	Ta'ufo'ou v Prisons Department (SC) Ta'ufo'ou v Prisons Department (CA)	2001 TLR 7 2001 TLR 11
TORT	false imprisonment – initial lawful arrest	Taulanga v Kama & ors (SC)	2006 TLR 53
TORT	false imprisonment – liability of Minister of Police and Kingdom of Tonga	Pohiva & ors v Kingdom of Tonga & ors (SC)	2002 TLR 333
TORT	False imprisonment by police- strict liability- no aggravated damages	Tongi v Kingdom of Tonga (SC)	2009 TLR 157
TORT	False Imprisonment- liability and question of immunity	Edwards v Pohiva (CA)	2003 TLR 231
TORT	False Imprisonment- not justified	To'ia v Leone & ors (SC)	2003 TLR 4
TORT	Intimidation – plaintiff claimed to have been intimidated into making payment	Bank of Tonga v Tulikihakau	1999 TLR 182
TORT	Malicious prosecution – criminal offence	Hamilton v. Tonga Water Board	1995 TLR 85
TORT	Misfeasance in public office – is an available remedy	Vuna v 'Ahio	1999 TLR 245
TORT	Misfeasance of office – abuse of public office – state of mind	Schafer-Macdonald v Health Practitioners Reg. Council & Kingdom of Tonga Health Practitioners Reg. Council & Kingdom of Tonga v Schafer-Macdonald	1997 TLR 69 1997 TLR 101

TORT	Negligence	T.M. Mataele v. M. Niu	TLR Vol 1 (1908-1959) 85
TORT	Negligence – architect - standards	Montfort Bros v Jaimi	1997 TLR 251
TORT	Negligence – breach of duty of care	Kauhala v. Minister of Police	1994 TLR 119
TORT	Negligence – head injuries – damages	Kilisimasi v. Malani & ors	1996 TLR 189
TORT	negligence – res ipsa loquitur	Fischer v Fung Shing Development Co Ltd (SC)	2006 TLR 295
TORT	Negligent advice – servant – duty of care	BPT Tonga Ltd v. Tohi	1996 TLR 63
TORT	No person has any legally protected interest in the life of another	Lei v Tonga Electric Power Board	1998 TLR 8
TORT	Pigs - May be shot if found at large on road or public property, even although they have subsequently entered private property	Pelesikoti, Minister of Police and Government of Tonga v Tavake	1981-1988 TLR 74
TORT	trespass – actionable per se – no damage caused – nominal damages	Piliu v Satini & ors (SC)	2004 TLR 115
TORT	Trespass by animals – obligations of owner and finder	Lonitenisi v Tu'i'onetoa	1997 TLR 161
TORT	Trespass by pigs – owner liable for damage to crops	Toafa v Talisi (SC)	2000 TLR 53
TORT	Trespass to goods – detinue – conversion – damages	Li v. Katoa	1996 TLR 195
TORT	Trespass to goods – Liability of Crown in Tort – Master and servant – Registration of motor vehicles	Lopeti &ors v. Akau'ola & Ors	TLR Vol 1 (1908-1959) 110
TORT	Trespass to goods – to person – assault – damages	Bank of Tonga v. Peacock	1996 TLR 175
TORT	Trespass to land – unlawful conversion - damages	Havea v Kingdom of Tonga (SC)	2000 TLR 31
TORT	Unlawful arrest, false imprisonment, and assault-appeal against dismissal of claim	To'a v Inu & ors (CA)	2009 TLR 66
TORT	Unlawful imprisonment and assault by police – vicarious liability - damages	Lavaka v Ministry of Police (SC) Tonga v Ministry of Police (SC)	2000 TLR 17 2000 TLR 111

TORT	Wrongful arrest – assault – false imprisonment – police	Muller v. Manu & ors	1996 TLR 73

WORDS AND PHRASES

WORDS AND PHRASES	*Alien*	Ma'umalangi v. Tupou	1994 TLR 30
WORDS AND PHRASES	*Deport*; *extradite*, meaning discussed	Pedras v PM and ors	2014 TLR 217
WORDS AND PHRASES	*Forthwith*	Geesteranus v. R.	1992 TLR 28
WORDS AND PHRASES	*Forthwith & Immediately*	Fathom Fisheries Co. Ltd v. Hon Fakafanua	1994 TLR 129
WORDS AND PHRASES	*House*	Bank of Tonga v. Vaka'uta	1994 TLR 25
WORDS AND PHRASES	*Interlocutory judgment*	Bank of Tonga v. Kolo, Vete & Ma'u (No.2)	1995 TLR 175
WORDS AND PHRASES	*Joint venture*	James v Bank of Tonga	1997 TLR 14
WORDS AND PHRASES	*outstanding, payable*, Purposive approach taken to cl 65 of Constitution; re debt	Tapueluelu v AG	2016 TLR 149
WORDS AND PHRASES	*Permanently resides* – Electoral Act	Afeaki & other v. Fuko & other	1993 TLR 15
WORDS AND PHRASES	*Receiver*	Clark v. Pikokivaka & others	1993 TLR 50
WORDS AND PHRASES	*Required*	Kulitapa v Minister of Lands (No. 2)	1997 TLR 122
WORDS AND PHRASES	*Tongan subject* - Tongan nationality – interpretation of Nationality Act – amendment applies retrospectively	Crown v Schaumkel	2012 TLR 94
WORDS AND PHRASES	*Wreck*	Clark & Pikokivaka & others	1993 TLR 50