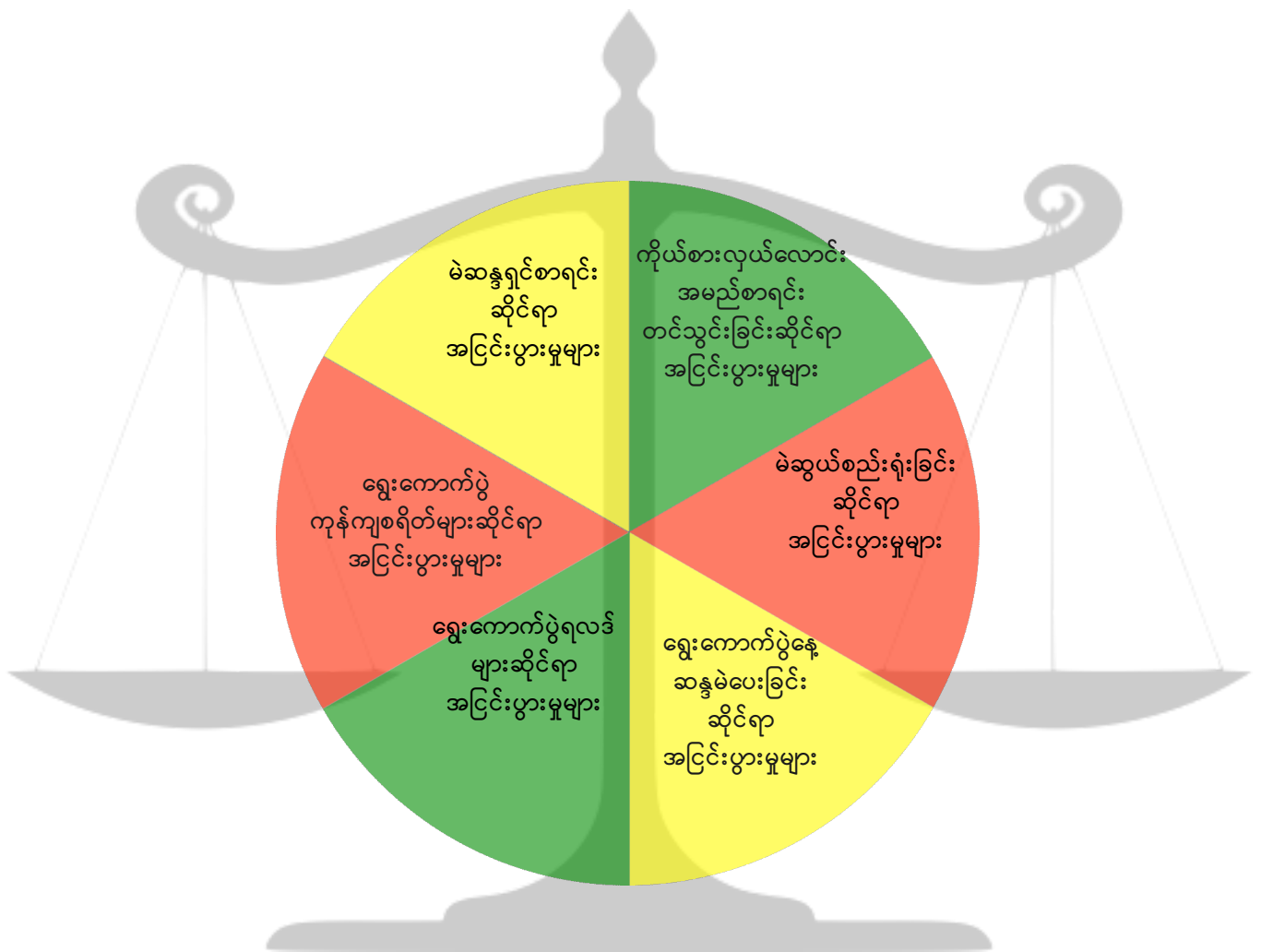




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Frequently Asked Question

FAQ

Election Dispute Resolution Process

Why is election dispute resolution important?

The resolution of disputes that occur during elections is an important feature of elections to address potential claim of intimidation of voters, illegal campaigning activities, breach of voting and counting procedures during the upcoming elections. Disputes can arise at any stage of the election cycle, not only against the results. It is critical to address irregularities before they spiral into major conflicts affecting the credible nature of elections, or before disputes lead to violence. Resolving violations quickly and imposing sanctions is essential to deter violations and build trust in the process.

Who can make a complaint?

Depending on the alleged violation, the legal standing differs: Eligible vote, candidate or his /her authorized representative, election agents, political parties, candidates, sub commission, polling staff members may have the right to file.

The table on filing process details who has the right to file an objection or a report.

Where can I make a complaint?

Depending on the alleged violation, a complainant or appellant may file at the UEC central commission and sub-commission level.¹ The location for filing will depend on where the instance of violation occurred. The location for filing a complaint and an appeal is provided in the table.

Note: For criminal offences, a complaint shall be filed before, on Election Day or within 15 days from Election Day before the relevant criminal authorities or brought to the attention of the police.

What types of complaints can be made?

The EDR table on filing process provides for the types of allegations and the jurisdiction

Here is a list of examples:

1. Eligibility of candidate to run for election
2. Deletion, Insertion or Correction of a name in the Voter List
3. Illegal Campaigning
4. Voting irregularities
5. Secrecy of vote
6. Counting irregularities
7. Violence, threat, intimidation
8. Access to media, observers or agents
9. Tampering with Sensitive materials
10. Interference by security personnel
11. Election expense report

What is an objection?

A written claim formally submitted to the sub commissions or central commission by an individual who alleges that a breach of the law, or rules has occurred as provided in the laws and rules. The UEC sub commission and central Commission will take actions based on this objection.

¹ UEC Sub-commissions include UEC offices at the State/Region, District, township and ward/village tract levels. The UEC Central Commission refers to UEC offices in Nay Pyi Taw.

What is a report?

A verbal or written allegation that provides information of a particular situation or event. It is within sub commissions or Commission's discretion to take actions. Reports can be made on a variety of election related instances, including allegations of violations during campaign or Election day irregularities.

When shall I file an objection or report?

Depending on the nature of the complaint or report filed, there are multiple different deadlines for submission. Reports may be filed as soon as possible from the occurrence of the violation during pre-election period, on Election Day or right after Election Day. The sub-commissions or central commission will not accept complaint after the deadline for submission has passed. In the absence of deadline, the complainant should file as soon as the irregularity occurs to ensure timely remedy.

The table on filing process provides for the deadlines for specific objections.

Who has authority to address alleged violations?

(a) The laws, election rules and working guidelines provide for the authority to investigation and adjudicate complaints and appeals – at different level of the UEC, including polling station manager, and/or with police or criminal authorities.

(b) The *EDR Table on Filing Process of alleged violations* lays out in details the different jurisdiction:

Allegation	Authority
Voter List	UEC relevant sub commissions
Candidate nomination	UEC relevant sub commissions and central commission
Accreditation of observers	UEC relevant sub commissions and central commission
Pre-election and Election day election irregularities: fraud or negligence	UEC sub commission and central commission and polling staff members
Violations by election officials	UEC central and sub commissions
Illegal Acts affecting election results (post election results)	UEC central (Election Tribunal)
Criminal acts	Police and courts

For post-election objections relating to the results, the UEC central Commission establishes Election Tribunals.

Who are the members of Election Tribunals?

The Election tribunals can be composed of

- three UEC central commissioners, or
- one commissioner who is the chair and two independent legal experts.

Where will these Election Tribunals operate?

The election tribunals will conduct investigation and hold public hearing at central commission and if needed, in the relevant state or region where the alleged violation took place. To assist their investigation, the UEC can send a member of the election

tribunal to the relevant state or region to investigate, or they can also appoint a person to conduct the investigation according to order 26 of the code of civil procedure.

Is there a filing fee for objection?

There is no filing fee or other charges for filing an objection or appeal for the voter list, candidate nomination; pre-election or election day complaints process. For election results objection process before the Election Tribunal, there is a fee of 500,000 Kyats to file a complaint.

What are the requirements to file a valid objection or report?

Official UEC Form or objection forms sample will be available at sub commission offices, central commission and on the UEC website. An individual may request assistance to the election officials or representative of a recognized participating civil society representative to fill out the forms.

The written claim should include specifics relating to the alleged violation, such as date, time, location and information on the perpetrators of the violation - if known. The complaint should also include the requested sanction. The claim should include the contact information of the person filing the objection or report. Evidence should be submitted to support the allegation. *Rumors or unverified claims* from unidentified individuals would not meet the threshold to investigate a case.

What should I expect after I file an objection or report?

The relevant sub-commissions will open a file and examine the objection alleging a violation as well as the evidence submitted. Investigators will conduct the investigation promptly, efficiently and impartially and a decision will be issued within a specified period.

The relevant sub commission or the Commission can request investigation support from the lower sub commissions if needed and the lower sub commission can ask for advice from the higher level sub commission.

Upon receipt of a report, the relevant sub-commissions or the Commission will do a preliminary consideration of the information submitted and may decide to start an investigation on their own initiative.

What type of evidence can I present?

The types of evidence will depend on the allegation. For instance, copy of voter list, copy of candidate nomination papers, any public statements from candidates, affidavits/testimonies from witnesses with personal knowledge of the events, or copies of courts' orders, bank account statement, copies of results sheet or campaign posters, picture or videos, observers report of polling station on Election Day etc can all be presented as evidence.

Who has to responsibility to prove the allegation?

The objector has the duty to prove his or her allegation to the UEC with concrete and sufficient evidence. The UEC central and sub commission may however collect evidence on their own during an investigation if needed.

If the allegation is not proven to be true, will the objector face sanctions/penalties?

No. The case is dismissed because of lack of evidence or insufficient evidence. However, if someone files intentionally false claims - that he or she knows are not true with the intention to disturb the election process or tarnish one individual's reputation, this objector may be charged before the courts according to the law.

What is the standard of evidence?

Investigators of sub-commission or UEC central Commission should make an effort to substantiate facts and evidence, without relying on hearsay, assumptions, or suppositions.

Investigators should assess the weight of the evidence based on standard of evidence. Evidence shall be strong, sufficient, relevant to prove or refute the allegation.

What is the difference between fraud or malpractice violation?

Electoral Fraud is defined as *Deliberate wrong-doing by electoral stakeholders or election officials, which distorts the individual or collective will of the voters.*

Electoral Negligence/Malpractice is defined as *The breach by a professional of his or her relevant duty of care, resulting from carelessness or neglect.*

During the assessment of the complaint, the investigator will determine the status of the alleged perpetrator to decide if he or she carried a duty of care. The investigator will determine if the alleged violation occurred with intent or if the action or omission relates to an act of negligence. The arbiter will also determine the impact on the election and if the will of the voter was altered by the violation. The remedies imposed will differ based on this assessment.

What is the difference between jurisdiction of the UEC and criminal authorities?

During the assessment of the allegation, the investigators will also clearly distinguish between election violation or criminal offences according to the law.

Some alleged violations may relate to both UEC and criminal authorities' jurisdiction, such as multiple voting (*impersonation*) on election day, vote buying (*bribery*), or intimidation of voters to vote for specific candidate (*threat or undue influence*), but the remedies and elements to prove the allegation differ.

The UEC will adjudicate a case of this type and, if the UEC believes the violation may amount to a crime, it can then refer the case to the criminal courts.

If the violation only relates to criminal offences that are defined in chapter XIII of the election law, or included in the penal code, the UEC can immediately refer the case to the criminal courts or to the police.

Will the hearing be open to the public?

The sub commissions, the Commission or Election Tribunal will schedule a hearing to allow the parties to present their arguments, evidence and defense. The hearing sessions are open to the public. Voters, observers, candidates can attend these sessions.

After the hearing, a decision will be made after considering the evidence.

Election Tribunals will hold public hearing in central commission office or in the

state/region where the alleged violation occurred.

When can I expect a response/decision?

The sub commission, Commission or Tribunal will issue a written decision and notify the parties involved within the specific deadlines set in the law or rules, or as soon as possible. The parties involved will also be informed of the right to file an appeal and the deadlines related to the appeal.

Will the decision be published?

The decisions will be made available to the public. Copies will be available upon request. Consolidated reports of decisions will be posted on the UEC website as soon as possible to ensure transparency.

Can I appeal the decision if I am not satisfied?

Yes, unless otherwise provided in the law. Generally, upon issuance of the decision of a sub commission, you can file an appeal to the higher level sub-commission.

The table on filing process provides details on the right to appeal.

Decisions that are made by the UEC central commission are final and conclusive, meaning that individuals do not have the right appeal against the decisions. The Commission may decide to review decisions of the sub commission on its own initiative. Similar proceedings regarding evidence, notification of parties and public hearing apply to the appeal adjudication process.

What types of remedies are available to the UEC?

After a decision on a complaint or report, the sub commission and Commission could take a range of remedies based on the proven violation.

- Sending warnings in writing
- Remedial actions (*for example, ask violator to remove illegal posters on public building, request agents to leave polling station, recommend other additional training and take necessary actions if not followed*)
- Take disciplinary sanctions against UEC staff (e.g. dismissal or suspension) or inform relevant authorities about violations by its staff
- Suspension or Deregistration of a party
- Revoke accreditation of observers
- Invalidate ballot, or an election, postpone or stop the poll
- Disqualify a candidate
- Revoke accreditation from candidate's agent.
- Declare a candidate loser or declare a candidate a winner

The UEC will impose remedies that are proportionate to the violation, adequate and timely.

What if UEC staff commits a violation?

The Commission has the power to take action against its own staff if they willfully committed violations. The Commission decides on its own initiative to investigate these violations by election officials based on information brought to its attention.

Election Dispute Resolution: Filing Process of Alleged Violations

<i>Subject</i>	<i>Type of allegation</i>	<i>Who can file</i>	<i>Where shall I file</i>	<i>When shall I file</i>	<i>Filing Fee</i>	<i>Electoral Law, rules & working guidelines</i>
Voter List	Objection against a voter's name in the Voter List (F4))	Eligible voter who are on the list in the same constituency	Ward / village tract sub commission.	Objection within 14 days from the announcement of the display of the voter list. Decision is to be made and notified within 7 days of submission of objection. The decision will mention the right of appeal.	Free	Election Law, Chap. VI, sect.16, 17. Election rules, s.11 (a, c)
	Appeal against decision of the ward/village tract commission relating to insertion, deletion or correction	A party dissatisfied with the decision	Township sub-commission.	Appeal within 3 days of the notification from the decision of the ward/village tract sub commission. Decision by the township is made as soon as possible.	Free	Election Law, s. 18. Election rules, 12 (c) Election Law, s.45/53
Hluttaw Candidate Nomination	Objection relating to eligibility of candidate to stand in election	Any candidate from the relevant constituency	District sub commission or Union Territory Sub-commission, relevant Self-Administered Division Sub-commission, Self-Administered Zone sub commission. <i>* For ethnic candidate, objection shall be filed at the state/region sub commission.</i>	Objection on the day of the verification of candidate nomination (<i>scrutiny</i>). Decision is made within 7 days from the submission of the objection.	Free	Pyithu Hluttaaw Election Law, Chap.VII, sect.25 (b); Election rules, s.30

Election Dispute Resolution: Filing Process of Alleged Violations

	Appeal against decision of sub commission relating to a candidates nomination	Any respondent or objector candidate dissatisfied with the decision	Appeal to respective State or region election sub-commission.* <i>*For ethnic candidate, appeal shall be filed at the UEC Central Commission.</i>	Appeal must be filed within 7 days of the decision. The decision shall be issued within 7 days of receipt of appeal. Decision to be notified within 3 days of the decision.	Free	Election Law, Chap.VII, sect.25; Election rules, s.31-33 Election Law, sec. 45/53 election laws.
Election Observer	Objection against the decision of the sub commission to refuse to accredit an observer	An observer who was denied accreditation	Objection to higher level sub-commission For international observers, you can file directly at NPT central commission	Within 3 days of the decisions.	Free	Code of conduct for observers and procedure for observers
Election officials and polling staff	Report alleging malpractice violation committed unintentionally by an election official or polling staff	<i>Any aggrieved person (voter, candidate, political party)</i>	Immunity for action exercised by election officials in good faith and to the best of their ability.	The UEC central Commission has the authority to investigate on its <u>own initiative</u> violations committed by UEC sub-commission and polling station staff.	Free	Arts. 86-87 Hluttaw Election Laws and article 63, article 54 and article 87.
	Report alleging fraud violation by an election official or polling staff committed with intention to alter the election process.	<i>Any aggrieved person. (voter, candidate, political party,)</i>	Report the violation to the relevant sub commission level (where the allegation took place) or UEC Central Commission. The Commission has the power to investigate reports <u>on its own initiative</u>	As soon as possible. The higher level sub commission or commission will take a decision as soon as possible. Review by relevant sub commission level or Commission.	Free	Election Law, Article 53

Election Dispute Resolution: Filing Process of Alleged Violations

Pre-polling irregularities: campaigning, code of conduct....etc	Report alleging election violation by an individual – whether fraud or malpractice.	<i>Any aggrieved person.</i>	The relevant level sub commission (where the allegation took place) or the UEC central Commission. The sub commission or UEC central Commission can refer back to the appropriate sub commissions.	As soon as possible. A decision will then be made by the relevant sub commission as soon as possible. Commission can decide to take case on its own initiative.	Free	See Code of conduct for observers, Chapter XII Election Law, Chapter XIII, XIV illegal acts
	Complaint alleging election offences as defined in chapter XIII of the Election Law: e.g. impersonation, bribery, intimidation (cognizable offences)	<i>Any aggrieved person. (voter, candidate, political party)</i>	Criminal courts or police station/officers.	Before, during and within a period of 15 after E-day.		Election law, chapter XIII, <i>election offences</i>
Election day: polling and counting violations	Report alleging election violation by an individual – whether fraud or malpractice. E.g. campaigning inside PS by agent; voter staying in PS after voting and willfully disturbing the voting process, irregularities in polling procedure.	<i>Any aggrieved person. (voter, candidate, political party)</i>	Polling station manager will take immediate action, or seek direction from relevant/appropriate sub commission or request assistance to police if needed.*	As soon as possible. Immediate actions for E-day violations. Action or decision will be recorded in the summary report form.	Free	Working guidelines

Election Dispute Resolution: Filing Process of Alleged Violations

	Complaint alleging election offences as defined in chapter XIII: impersonation, bribery, intimidation (cognizable offences)	<i>Any aggrieved person. (voter, candidate, political party)</i>	Police or security personnel, or criminal courts. *Report irregularities at PS first to the polling officers - before police.	Before, during and within 15 days after E-day.		Working guidelines; Election Law, Chapter XIII <i>election offences</i>
Announce ment of election results (winner candidate)	<u>Objection</u> alleging illegal acts resulting in unduly elected candidate. E.g. irregularities in counting o voting procedure, illegal campaigning or forged election report.	Any eligible voter or candidate or agent against an elected representative	Filing objection to Commission that will form an Election Tribunal to adjudicate the objection.	Within 45 days after announcement of results	500,000 Kyats	Const, 399(g); <i>Election laws, Chapter XV, XIV; Election Rules, Chap 14.</i>
	Appeal against the decision of the Tribunal	Any respondent or objector dissatisfied with the decision	Appeal to the Commission in NPT.	Within 15 days after the decision of the Tribunal.	500,000 Kyats	Constitution, art 402 (b); Election rules, 99 (c).

Election Dispute Resolution: Filing Process of Alleged Violations

Election expenditure	Objection against the recommended list to be defined as disqualified candidates by the sub commission (e.g. failure to submit expense report or exceeding the amount)	A Hluttaw candidate (or his/her agent) who is recommended to be disqualified	The report from the sub commission and the objecting letter from the candidate will be scrutinized by central commission. Formation of Election Tribunal specifically in charge with reviewing these reports. Tribunal will prepare a report and present it to the Commission for decision.	Within 15 days after affixing the notice of disqualification.	Free	Election law, Chapter XII; Election rules, Chap 13, s.82-83
Election offences as defined in chapter XIII	Complaints alleging election offences as defined in chapter XIII: violence, bribery, intimidation (cognizable offences)	Voter, candidates, member of sub commission or polling booth member of relevant constituency, or police officer	Appropriate Courts or police stations	Before, during and within 15 days after E-day		Hluttaaw Election Law, Chap.XIII; Election rules; working guidelines. Penal Code, Chapter X A of Offences relating to Elections (section 171 A to 171 J)
	Appeal against decision of court	A party dissatisfied with the decision	Appellate courts			Penal Code.

*Note: Article 53 of the election law: “The Commission has the power to call for the proceedings and documents of each Sub-commission relating to election matters suo motu as it deems fit, study and decide as may be necessary. Such decision shall be final and conclusive.”