



Frequently Asked Questions (FAQ)

Election Dispute Resolution



What is Election Dispute Resolution and why is it important?

Election Dispute Resolution is an integral part the election process that aims to address potential disputes and grievances that may be raised by voters, candidates, parties, observers or other electoral participants at various stages of the election process. Disputes encompass a broad range of alleged violations of electoral laws and bylaws such as voter intimidation, illegal campaigning, breaches of code of conduct, or violation of voting and counting procedures. Effective, fair and speedy resolution of disputes is important to ensure legitimacy of the election and public confidence in the democratically elected institutions.



Which actors are responsible for resolving election disputes in Myanmar?

There are a number of actors involved in election dispute resolution in Myanmar. The jurisdiction of actors depends on the nature of the alleged violation, time of occurrence, and type of complaint. Below is an overall summary of key actors:

- The **Union Election Commission** and **Election Tribunals** are responsible for handling election malpractices that affected the election of a candidate,
- the **sub-commissions at various levels** for handling administrative objections and appeals (such as complaint against Voter List or Candidate Nomination). This process is clearly defined in the election law.
- **Election Mediation Committees** were established as an alternative form of resolving disputes related to campaign period and breaches of the code of conduct. Mediation is a voluntary process for assisting parties reach a mutually acceptable settlement in relation to the dispute from the campaign period up to election day. For more information, please refer to FAQ on Mediation.
- During election day, the **Polling Station Officer** is also assigned a level of responsibility in relation to disputes within the polling station during election day.
- The **Police and Courts** are responsible for resolving serious breaches such as cases of election crimes as defined in the election law and offences as defined in the criminal code.



What is a complaint?

A complaint is a written claim submitted formally the Union Election Commission or the relevant sub-commission by an individual who alleges a breach of election laws or rules.



What are some examples of complaints?

There are a variety of possible complaints, which vary in nature, time of occurrence, actor responsible for its resolution and deadline to submit and/or obtain a decision. Some examples of complaints include:

- **Deletion, Insertion or Correction of a name in the Voter List.** For example, insertion of an eligible voter's name in the voter list, correction of voter's information, removing of deceased voters from the voter list. For more information, please refer to Voter List FAQ.

- **Complaints during candidate nomination process.** Challenging the eligibility of a candidate or appealing the decision of the UEC Sub-commission to reject a candidate nomination. For more information, please refer to the Candidate Nomination FAQ.
- **Illegal Campaigning.** For example, abuse of public resources (vehicle or office) by a candidate, hate speech against a group of voters, or defamation against another candidate.
- **Breaching of the Code of Conduct for observers, media and agents.** For example, taking photo inside the polling station, interfering in the polling process, bias for a certain candidate.
- **Irregularities during voting and counting.** For example, voter impersonation, campaigning at the polling station, fraud with ballot in favor of one candidate, or disturbing the electoral officer who is performing duties, delay in opening PS and loss of materials /of the ballot of box.
- **Violation of secrecy of vote.** For example, interfering with voters while casting the ballot, or taking photos of voter by the polling staff.
- **Serious offences.** For example, violence, threat, intimidation, undue influence, cheat, bribery.
- **Limitation of access for observers, media and agents. For example,** not allowing access to take photo outside of the polling station, refusal of entry to enter polling station.
- **Damaging or loss of sensitive materials.** For example, destruction of sensitive materials, destruction of document unable to read.
- **Campaign finance violations.** For example, exceeding the expenditure amount, or failure to submit the report on time.
- **Election petition relating to the election results (*challenge to the election of a candidate*).** For example, objection to an elected candidate as he/she committed illegal acts during the campaign and on election day that allowed him/her to win the election or the election is not conducted fairly.



What is the procedure for filing a complaint?

The complaint procedure depends on the nature of the alleged violation, time of occurrence and actor, which has jurisdiction over the complaint. Below is a summary of the procedures.



VOTER LIST COMPLAINTS

(For more information, please refer to FAQ on Voter List)

What type of complaint can be filed?

- Claim of Insertion, Form-3 - If a voter's name is not included in the voter list
- Claim of Amendment, Form 4-C - If voter's information is shown incorrectly
- Claim of Objection, Form 4 - If a name on the voter list should not be there

Where to submit?

The office of the Ward Village tract Sub-commission

When to submit?

Within 14 days from the start of the display period

Is there a fee?

No fee

What evidence can be provided?

Identity documents, national registration card, copy of passport, residency document, copy of household list, court judgment, or other form of evidence in support of the request a voter makes

When will a decision be taken?

The Ward Village Tract sub-commission will communicate the decision within seven (7) days from the submission of the request

What if the voter's request is approved?

If the voter's request for insertion, amendment or objection is approved the changes will be made as requested

What if the voter's request is rejected? Is there right to appeal?

A voter not satisfied with the decision of the Ward Village Tract Sub-commission, may appeal the decision to the township sub-commission. The appeal form must be submitted within 3 days of receipt of notification. The township sub-commission decides immediately.



CANDIDATE NOMINATION COMPLAINTS

(For more information, please refer to FAQ on Candidate Nomination)

Who can file an objection?

Any candidate from the same constituency, or his/her agent, may file an objection. The relevant sub-commission may also conduct an investigation on its own initiative.

Where to file the objection?

At the relevant district sub-commission level. Ethnic candidates should file an objection at the state/region sub-commission.

When to file an objection?

An objection should be filed at the time the applications are scrutinized on the time and day(s) of the scrutiny.

Is there a fee?

No fee.

What type of evidence can be submitted?

Copy of voter list/ proof of registration, birth certificate, any public statement (based on writing or speech) from candidates, Affidavits from witnesses with personal knowledge of events, Copies of courts' orders showing prior conviction or insolvency, and, any other relevant evidence. The sub-commission will give the opportunity to the respondent candidate to show that he/she is qualified to contest elections.

When will a decision be taken?

The sub commission should issue a decision in writing within seven (7) days from the day of scrutiny. The sub-commission will decide whether the candidate is eligible or not to stand as a candidate in the election.

Is there a right to appeal and what is the procedure?

The objector, the respondent who is not satisfied with the decision can file an appeal.

- The appeal should be submitted to the relevant region/state sub-commission. An appeal should be filed within seven (7) days from the date the decision is adopted.
- If an ethnic affairs candidate is not satisfied with the decision, an appeal may be submitted to the UEC Central Commission in Naypyitaw. The same proceedings as above apply.
- There is no fee for submission of appeals.

The region/state sub-commission or the Union Election Commission in Nay Pyi Taw shall decide within seven (7) days of the receipt of the appeal.



COMPLAINTS RELATED TO PRE-POLLING PERIOD, CAMPAIGN AND CODE OF CONDUCT

What type of complaint can be filed?

- Disputes alleging breach or election violation by an individual, candidate, party.
- Complaint alleging election offences as defined in chapter XIII of the Election Law: e.g. impersonation, bribery, intimidation (cognizable offences)

Who can file?

Any aggrieved person.

Where to file?

To the relevant level sub commission (where the allegation took place).
If UEC found out that the case is related to criminal offences, it can be referred to police.

When to file?

- As soon as possible. Commission can decide to take case on its own initiative or refer the case to the Electoral Mediation Committee (see FAQ).
- Election offences before, during and within a period of 15 after E-day.

Is there a fee?

No.



COMPLAINTS AGAINST RESULTS OF ELECTED CANDIDATES

What type of complaint can be filed?

Objection alleging illegal acts as defined in the Hluttaw election law resulting in unduly elected candidate. E.g. irregularities in counting or voting procedure, illegal campaigning or illegal campaign finance

Who can file?

Any eligible voter who has casted his/her vote in the relevant constituency, that is a voter, candidate or agent against an elected representative

Where to file?

At the UEC in NPT

When to file?

The election petition can be submitted within 45 days after announcement of results by the relevant sub commission.

Is there a fee?

500,000 Kyats

What is the composition of the tribunal?

For post-election complaints, Election tribunals are temporarily EDR bodies established by the UEC. They can be composed of two categories.

1. Three UEC central commissioners, one commissioner as Chairman of Tribunal and the other two commissioners as members of Tribunal).
 2. One commissioner and two independent legal experts, one commissioner as Chairman of Tribunal and two independent legal experts as the members of Tribunal. The independent legal experts must be a graduate of law and not any member of political party.
- The Tribunal is assisted by the UEC Election Tribunal Department officials, and District Judge level officials from Union Judiciary for the legal advice.

Will there be a hearing?

The hearings of the complaint/objection relating to results are made at Union Election Commission in Nay Pyi Taw. But decentralized hearings will also made at respective region/state for further investigation.

Is there a right to appeal?

Yes. Persons not satisfied with the decision may appeal the UEC in Nay PYi Taw within 15 days after the decision of the Tribunal. There is a fee of 300,000 Kyats to file an appeal with the board of commissioners at the UEC.



ELECTION OFFENCES (CHAPTER XIII)

What type of complaint can be filed?

- Complaints alleging election offences as defined in chapter XIII: violence, bribery, intimidation (cognizable offences)
- Appeal against decision of court

Who can file?

Voter, candidates, election agents, sub-commission or polling booth member of relevant constituency.

Where to file?

At police stations with police officer.

When to file?

Before, during and within 15 days after E-day

Is there a right to appeal?

A party dissatisfied with the decision of the Court may appeal to the relevant Court of Appeals in accordance with the requirements of judicial proceeding.

GENERAL QUESTIONS RELEVANT TO ABOVE-MENTIONED COMPLAINTS PROCEEDINGS



What are the requirements for a valid complaint?

The claim should include specifics relating to the alleged violation:

- Name and address
- Statement of the facts in concise form of the important facts
- List of full particulars relating to the violation, names of the alleged perpetrators, date and place of commission of the violation, the list shall be attached to the documents.
- Signature acknowledging the veracity of his or her statement
- Evidence and copies of any documentation to support the claim mentioned.

Rumors or unverified claims from unidentified individuals would not meet the threshold to investigate a case. Claims without mentioning the key information such as name of the complainant will not be considered to address.



What should I expect after I file an objection?

The Election Tribunal shall, as soon as possible, cause a copy of the petition to be served on each respondent and to be published in the Government Gazette. In addition, a copy of the petition shall be affixed on the notice board which will be seen by members of the public. Within 15 days after petition is fixed on the notice board, if any respondent, or a voter who is entitled to present petition having joined as co-respondent wishes to claim any right in connection with the election, he may claim such right on payment of 500,000 kyats to the budget head prescribed by the Commission as litigation costs which will be borne by the State and he shall also be entitled to produce evidence in connection with such right.

The Election Tribunal, subject to the provision of those rules, shall inquire into the petition in accordance with the procedure applicable under the Code of Civil Procedure to the trial of the suit. The Election Tribunal may sit and enquire at any other place within the Union of Myanmar for any part of the enquiry. Besides, if it is necessary to examine a witness, who is unable to come to the Election Tribunal, any member of the Election Tribunal may be deputed to take evidence or commission may be appointed under the provisions of the order of Civil Procedure.



Will there be a hearing?

Hearings are not mandatory for all types of complaints. The relevant sub-commission may hold hearings related to the complaint:

- For example, for the post-election phase, the Election Tribunals may hold public hearing for the objection on result at central commission office, or in the state/region where the alleged violation occurred to save time and limit the costs of the proceedings. All or some of the hearings of a case can be made at respective region/state based on the allegation, the number of witnesses. To assist their investigation, the UEC can also 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.



What should I expect after I file an objection?

The complainant should submit the evidence to support the allegation. 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, photos or videos, observers report of polling station on Election Day can all be presented as evidence.



Who has responsibility to prove the allegation?

The complainant/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, such as collecting interviews from polling officials or election officials at the respective sub-commissions or any person.



Can the UEC investigate on its own initiative?

Yes. The UEC at central or sub-commission level may initiate an investigation based on information brought to its attention. The UEC may access the documents submitted to it, or examine additional evidence and resources as necessary to determine the outcome of a case.



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 types of remedies and sanctions are available to the UEC during the election period?

After a decision on a complaint, 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)
- Disciplinary sanctions against UEC staff (e.g. dismissal or suspension) or inform relevant authorities about violations by its staff
- Revocation of accreditation of observers
- Invalidate ballot, or an election, postpone or stop the poll
- Disqualify a candidate
- Declare a candidate loser or declare a candidate a winner.



Will a decision be published?

The decisions will be communicated to the parties involved by the relevant sub-commission within a specific deadline or as soon as possible from the decision. The decision of post-election complaint (objection on result) will be announced at public hearing. The decision of Tribunal if there is no appeal, or the decision of Board of Tribunal if there is appeal will be announced in the National

Gazette and made available on the UEC website. Copies will be available to respective parties upon request before the decision is announced on National Gazette.