

Positive and Negative Roles of the Members of the 9th Parliament: A Review

Executive Summary

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Shahzada M Akram[†]

Executive Summary

1.1 The Context

The role of the Parliament is extremely important in the present day democracies. The key tasks performed by the Parliament are enacting laws, monitoring the executive, ensuring the accountability of the government through committee hearings, and discussing issues important for the state and taking decisions in this regard. According to the Constitution of Bangladesh, all power vests with the people. The people enjoy their constitutional rights in law-making through their representatives, and such representation is done through the Members of the Parliament.

After the restoration of parliamentary system of government in 1991, it is observed that the successive parliaments were not effective as expected. Before the 9th Parliament election, the two major political parties in their electoral manifestos had committed in making the parliament effective. However, in the three years following the formation of the 9th Parliament, different studies on MPs' performance inside the parliament have come out with the findings that the MPs were not doing at an expected level. Their alleged involvement in extra-legal activities, abuse of power and irregularities, and also in many of the cases the apparent impunity they have been enjoying (i.e. lack of any measure against their corrupt activities), particularly with respect to their performance outside of the parliament, made their transparency and accountability questionable.

1.2 Rationale of the Study

There is a dearth of a systematic research on the activities of MPs outside the Parliament, although a number of studies have been conducted on the parliamentary process. In this context the present research was initiated as a part of TIB's regular research on strengthening democratic institutions in the country. In this study, an effort has been made to assess MPs' activities both inside and outside the Parliament, with an aim to validate the information available through the media.

1.3 Objective and Methodology

The main objective of this study is to identify and analyze the nature of MPs' activities, both positive and negative, in and outside of the Parliament. The specific objectives are:

1. To review the legal framework related to MPs, and its limitations;
2. To identify positive activities of MPs within and outside the parliament; and
3. To identify irregularities of MPs within and outside the parliament, and review the factors responsible for such irregularities.

The study is based on the analyses of primary and secondary data. Information on the participation in the Parliament was taken from the Parliament Watch report of TIB. In order to assess the activities of MPs outside the Parliament, news published in various national dailies were reviewed for the period of January 2009 through September 2012. It was found that news alleging various corrupt activities have been published regarding 181 MPs (51.7% of all the MPs). Very few of the MPs provided any rejoinder or took the matter to court or the Press Council. Given above, qualitative data collection techniques were used to collect primary data on MPs' activities outside the Parliament and validate the situation from field level. In this process information on 149 MPs were collected through 44 group discussions in 42 districts comprising local people who are educated, aware, informed and apolitical. A total number of 600 participants consisting of teachers of local educational institutions, businessmen, lawyers, journalists and people from other professional groups joined in these discussions. The participants provided information and opinion on respective MPs on the basis of

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their direct or indirect experiences. However, in case the participants did not have such experience or information on any particular MP, he or she was not included.

Sources of secondary information for this study included the Constitution of Bangladesh, the Parliamentary Rules of Procedure, laws and rules related to MPs, published and unpublished research reports and ongoing studies, including reports published in the media and websites. Data were collected from the beginning of the 9th Parliament to September 2012. The group discussions were held during July – September 2012.

2. The Legal Framework

The Constitution of Bangladesh is the legal basis of the Parliament, the *Jatiya Sangsad*. Apart from the Constitution, there are laws on the special privileges, remuneration and other allowances and facilities. The Parliamentary Rules of Procedure states elaborately how MPs will participate in different parliamentary activities, and what their roles will be. Moreover, the ‘Representation of the People Order, 1972’ and the ‘Representation of the People Order (Amendment) Act, 2009’ stipulates the eligibilities and non-eligibilities to become an MP, disclosure of information as a candidate, and cancellation of candidature and membership in the parliament for providing wrong information.

2.1 Limitations of Laws relating to the MPs

There are limitations in the laws with regard to disclosure of information of MPs before and after being elected. While it is mandatory for the candidates to disclose a number of financial information, after being elected, MPs are not bound to continue to do the same. They are also not bound to disclose information with regard to conflict of interest. There is no ‘Code of Conduct’ for the MPs. Their authority is ensured in the Upazila Parishad through the law. They have been made accountable to their respective parties through Article 70 of the Constitution, breaching of which will end in cancellation of membership. However, there is no legal obligation for the MPs to be accountable to the voters.

Table 1: Limitations of Laws relating to MPs

Issue	Legal Bindings	Limitation
Disclosure of financial information (income, expenditure, property)	<ul style="list-style-type: none"> ▪ Mandatory to disclose as a candidate 	<ul style="list-style-type: none"> ▪ Not mandatory as an MP
Disclosure of information on bill, tax, and debt	<ul style="list-style-type: none"> ▪ As a candidate mandatory to submit to the Election Commission, which in turn will disclose it to the people 	<ul style="list-style-type: none"> ▪ Not mandatory to disclose information on whitening ‘undisclosed money’
Disclosure of information on ‘Conflict of Interest’	<ul style="list-style-type: none"> ▪ The respective Committee will verify direct, personal or financial interest before inclusion as a member 	<ul style="list-style-type: none"> ▪ No legal provision on disclosure of information in this respect
Disclosure of information on criminal cases	<ul style="list-style-type: none"> ▪ Mandatory to disclose as a candidate 	<ul style="list-style-type: none"> ▪ Not mandatory as an MP
Submission of financial statement on electoral campaign	<ul style="list-style-type: none"> ▪ Mandatory to submit to the EC after the election ▪ EC will disclose to the people 	<ul style="list-style-type: none"> ▪ No provision or system for verifying the statement
Electoral Code of Conduct	<ul style="list-style-type: none"> ▪ Breaching Specific Code of Conduct will result in jail and fine 	<ul style="list-style-type: none"> ▪ Discrepancy in penalties
‘Code of Conduct’ for MPs	<ul style="list-style-type: none"> ▪ Penalty to be imposed in case of breaching of discipline in parliament 	<ul style="list-style-type: none"> ▪ No ‘Code of Conduct’ for MPs
Authority of MPs	<ul style="list-style-type: none"> ▪ Ensured as Advisors in Upazila Parishad 	<ul style="list-style-type: none"> ▪ Acts as a negative incentive for empowerment of local government
Participation in the parliament	<ul style="list-style-type: none"> ▪ Absence up to 89 session-days permitted 	<ul style="list-style-type: none"> ▪ No bindings for participation in Standing Committees
Accountability to the party	<ul style="list-style-type: none"> ▪ Membership in the parliament to be cancelled if an MP votes against his/her party or abstain from voting 	<ul style="list-style-type: none"> ▪ Acts as a deterrent for MPs to criticize own parties’ policies or any bill
Accountability to the people	<ul style="list-style-type: none"> ▪ 	<ul style="list-style-type: none"> ▪ No legal provision to make an MP accountable to the voters

3. Review of Activities of MPs

3.1 Participation in Parliamentary Activities

The average attendance of MPs during the 1st to 7th Sessions in the 9th Parliament was 67%. Late attendance of MPs resulted in quorum crisis regularly. During the 1st to 11th Sessions of the 9th Parliament (from January 2009 to December 2011) the total time of such quorum crisis was 7,785 minutes which is worth Tk 326.9 million. All the MPs of the opposition were present in less than 25% of all session-days due to consequent boycott of parliament. The opposition was present in only 21.25% of all the session-days.

It is observed that only 9.2% of the session-time was spent for enacting laws during the 1st to 7th Sessions of the 9th Parliament, of which 27% was spent on arguments and discussions on various bills and related amendments. On the part of the MPs of the treasury bench the discussion on the bills were limited to restructuring sentences, or to adding or deducting a few words. Objections to the main content of the bills were hardly raised by them. On the other hand the participation of the opposition MPs in the above was insignificant due to their boycott of parliament. Participation of the common people in the process of enacting laws was not ensured. One of the MPs placed the 'Code of Conduct Bill 2009' as a private member's bill in the parliament which is yet to be enacted as a law.

However, 23.8% of the session-time was spent on question-answer sessions of the Prime Minister and of the ministers, which is important for accountability of the government. The rate of participation of the MPs in discussion sessions was generally low. A number of MPs raised issues around public interests and criticized the government and related ministers for failing to deliver desired services. Ministers in general showed a tendency of not answering questions they found uncomfortable. There was no discussion in the parliament on international treaties that involved national interests. Among the women, in majority of cases MPs of reserved seats participated more in the question-answer sessions. However, the discussion often involved irrelevant issues. Both the treasury bench and the opposition MPs praised their own leaders, criticised leader of respective opponenets, and resorted to personally attacking, unparliamentarian language. These are some of the examples of how the MPs of both the government and opposition parties spent their time on irrelevant issues.

All Standing Committees were formed in the very 1st Session of the 9th Parliament. Since then the committees had 641 meetings and forwarded over 900 recommendations, majority of which was not acted upon. One of the positive signs of the 9th Parliament was the inclusion of the opposition MPs in the Standing Committees and their active participation in the meetings.

3.2 Activities of the MPs outside the Parliament

Among the 149 MPs whose activities are discussed in the study the number of male members was 141 (94.6%) and female was 8 (5.4%), and the number of the government party members was 136 (91.3%), while 13 (8.7%) were from the opposition parties. Twenty-seven MPs of the government party were either ministers or state-ministers (18.1%). Based on the information derived from the group discussions the activities of the MPs are divided into two – positive and negative:

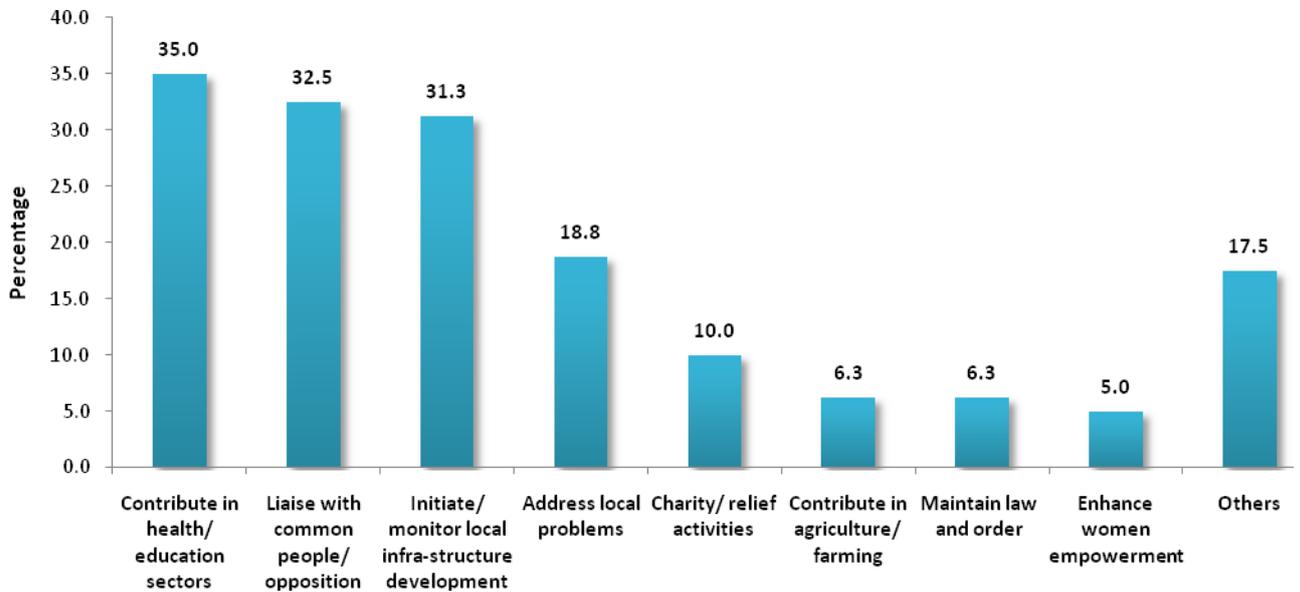
3.2.1 Positive activities of the MPs

According to the information provided by the participants in the group discussions, 53.7% of the MPs covered in this study contributed in the respective constituency through some forms of positive activities or other. Of these, six are females, five are from the opposition party, and 19 are ministers and state-ministers.

Positive activities in the health and education sectors included the construction of new structure, land allocation, fund allocation, medicine distribution without cost, providing health services in *char* areas, adoption of new courses in the education institutions, inclusion of education institutions in the government support /payment systems (MPO) etc. A total of 35% MPs were involved in these activities in respective constituencies. The majority of MPs who contributed in local construction functions (31.3%) were involved in the activities related to the construction of roads and bridges, approval process of construction projects, supervision, development of electricity system and rail-lines etc. 18.8% MPs were involved in responding to certain problems at the local level such as

combating robbery and hijacking in the fishing boats and salinity problems in coastal belts, river erosions, activities of extremist groups and so on. Resumption of local jute industries and road development in *haors* (wetlands) are also included in the list of positive activities at the local level. Other activities (17.5%) included contribution to cultural activities, environment protection, maintaining communal harmony, helping people find jobs and the development of religious institutions.

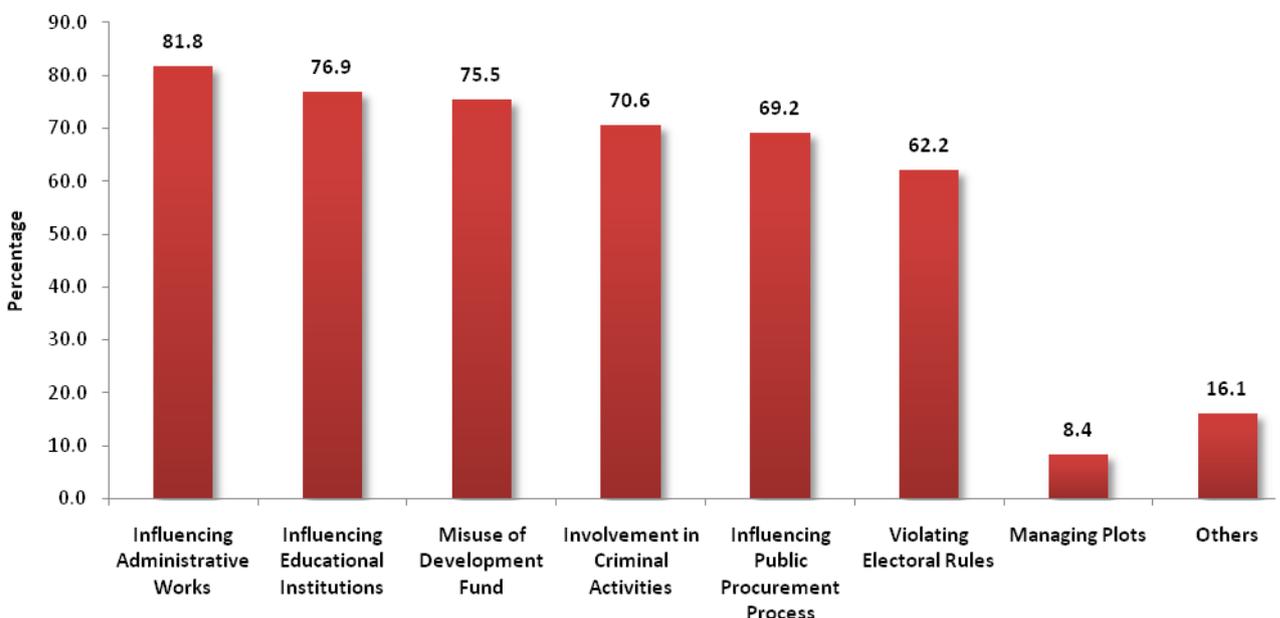
Illustration 1: Positive activities of the MPs



3.2.2 Negative activities of the MPs

According to the information provided in group discussions, 97% of the MPs are involved in some forms of negative activities. Among them the number of female MPs is seven, and opposition MPs 12. All ministers and state-ministers covered in the study were reported as having involvement in negative activities.

Illustration 2: The patterns of complaints against the MPs covered in the study



Among the MPs involved in negative activities, some 81.8% is engaged in activities related to influencing local administrative decisions, job-placement and transfer process in national and local institutions. There were not many instances where legal cases were filed against the MPs. There were also instances when counter cases were filed. It is observed that the MPs often influenced the local authority to transfer a particular officer from their constituencies.

Among the MPs involved in negative activities some 76.9% are engaged in abusing power as the chairman of local education institutions. They do so by controlling different school committees and member selection process, influencing the teacher appointment process, taking bribes for teacher appointments and registering schools in the government system, embezzling funds allocated for the schools, and by doing corruption in getting funds for the schools.

As much as 75.5% of the MPs engaged in negative activities use development fund/projects at the local level for their own benefit. This involves abusing their supervisory authority in development projects for personal gain, providing their family members with undue advantage, providing contracts of supplies and constructions to the members of their own political parties, and taking bribe (often termed as 'commission') in distributing development funds. Influencing the approval process of development projects, fund allocations against fake projects and organizations, corruption in relief distribution and in other programs for the poor are also reported as the negative activities the MPs are involved in. It was found that 78.7% of the MPs who misappropriated development fund took commission for giving approval to projects or programmes. Such commission is usually fixed at the rate of 5% or sometimes more. Though party members usually got preference in getting contracts for supplies, however, it was not always the case. In some cases whoever paid the highest commission got the contract as the participants in group discussions observed.

Among the MPs with involvement in negative activities some 70.6% were allegedly engaged in different kinds of criminal activities and corruption. Examples include alleged involvement in murder, land grabbing, taking illegal possession of government lands and water bodies, extortion, tender, and the manipulation of government procurement and tender process with violence. While 53.5% of these MPs had direct involvement in criminal activities, party leaders and activists at the local level had their involvement in nearly all those cases. As per the information gathered from group discussions only 24.1% of the MPs, who were allegedly involved with criminal activities, were charged with a criminal case. It has been observed that people are hesitant to go with a formal criminal case, and local police stations tend to refuse to register any case against the MPs without prior consultation with them because of their (MP's) influence at the local level.

Some 69.2% of the MPs, who were involved in negative activities, influenced the procurement decisions in government, autonomous and local government institutions at the district level without having a formal engagement with these institutions. Among them 71.7% MPs either had their own contractor company or used other's license to operate businesses. This also included the cases where the companies owned by family members or relatives were awarded contracts. In almost 89% of cases government party MPs got the contract of development activities in their own constituencies and the rest were also manipulated by taking commissions from the individuals/companies getting the contracts.

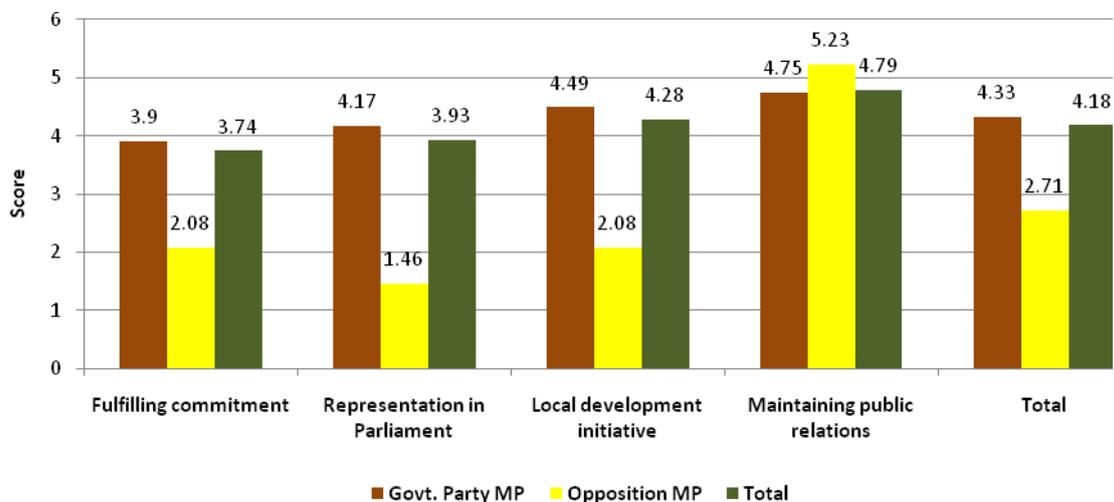
There are allegations against 62.2% MPs that they influenced the local government elections.. This involves supporting a particular candidate taking money, providing party support for a specific candidate, open declaration of support for a specific person and manipulating election results. It was also reported that 8.4% of the MPs covered in the study were allocated residential plots in Dhaka despite having lands and flats in the city. The discussants also reported about the use of fake statements regarding property ownership by the MPs.

3.2.3 The degree of people's satisfaction regarding the performance of the MPs

Based on four indicators, the participants in group discussions were asked to discuss the degree of their satisfaction regarding the performance of the MPs covered in the study. A scale of 1 to 10 was used to determine the degree of satisfaction with 1 being the least and 10 being the most satisfactory.

The overall score on the performance averaged at 4.18 with the opposition MPs getting lower score than the government party MPs on certain areas such as fulfillment of electoral promise, representation of the constituencies or involvement in local activities. The opposition MPs, however, scored higher on account of engagement with local people. As much as 68.45% MPs scored less than 5 and only 3.36% attained 7.6 or more. According to this analysis it can be said that the degree of people's satisfaction about MPs performance was low.

Illustration 3: The degree of people's satisfaction about MPs performance (on a 1 to 10 scale with 1 being the least and 10 being the most satisfactory)



4. Analysis of the reasons of the problems

4.1 Using the membership of the Parliament as a means of income generation

The present ruling party came to power after a 7-years gap. During this gap local leaders and activists of the party could not enjoy their political power and realize their economic interests. To compensate, MPs created opportunities for the party members to gain personal benefits from the development initiatives at the local level. This also works as a kind of investment for the MPs to retain their local support-base for the next election.

4.2. Structural weakness

- According to Article 70 of the Constitution of Bangladesh, MPs are only accountable to their parties. As a result of this the accountability to the people by public representative remains ineffective.
- During their term MPs are not legally bound to disclose information regarding their income-expenditure, properties, income tax, loan, legal cases and information about the usage of development fund in their constituencies.
- MPs hold enormous amount of power at the Upazila (sub-district) level resulting from their legal authority to engage with and advise local government institutions. This is weakening the local government system (*Upazila Parishad*) on the one hand, and making the local institutions as a field for the MPs to manipulate for electoral and personal interests on the other.
- The authority of the Election Commission or the Parliament to cancel the membership of parliament is not clearly outlined. This is creating an opportunity for the MPs to take advantage of this. As a result, there is no example of cancelling the membership. In the process of enacting the laws, the treasury bench (ministers, state-ministers and deputy-ministers) play the main role under the current practices limiting the participation of backbenchers and the opposition. The system of proportionate representation in the parliamentary committees limits the participation the opposition MPs.

4.3 Absence of democratic values within parties and at personal level

All of the large political parties suffer from the problems of not having local committees for long times, irregular party councils, and the absence of next line of party leaderships. Central party leaders

show intolerance to the party members who raise these issues. There is a general intolerance and negative attitude towards the opposition parties.

4.4 Proliferation of the ‘Culture of Impunity’

There is hardly any example of effective action against the MPs involved in negative activities which has given rise to a culture of impunity. As a result MPs are not facing any significant constraints in engaging in negative activities. Though allegations of corruption have been raised frequently during the term of this government no effective actions were taken against any ministers or MPs.

5. Recommendations

A. Increasing the effective participation in the parliament

1. The system of allocating administrative duties to MPs has to be stopped so that they (MPs) can concentrate on their constitutional duties. Relevant laws need to be amended with the purpose of stopping MPs from involving in implementation of local development activities.
2. En-bloc boycott of parliament must be banned by law. To ensure greater attendance of the MPs in the parliament no more than 30 days and seven consecutive days’ absence (without specific reasons) should be allowed.
3. Effective and equal participation of the opposition MPs should be ensured. For this certain measures need to be adopted. They include the provision of electing the deputy-speaker from opposition parties, resignation of the Deputy Speaker from the party be made mandatory, and the opportunity of being elected without competition from their own constituencies in the next election. The opposition party members will represent in at least 50% of the parliamentary standing committees including the one on public accounts.
4. Resignation of the Speaker from the party should be made mandatory, and the opportunity of being elected un-contested from the same constituency in the next election.
5. Article 70 of the Constitution should be amended. The provision of voting against own parties needs to be created except on such matters as national security, national budget and no-confidence motion.

B. Restraining from negative activities

6. The Code of Conduct Bill 2009 for MPs should be enacted as a law.
7. Legal steps have to be taken against the negative activities of MPs. Respective parties need to take stern action in this regard. The MPs involved in negative activities should be expelled from the party and should not be given nomination in the next election. Respective parties need to make public declaration regarding the nomination. The provisions of membership recall, referendum, or extraordinary general meeting need to be created to hold particular MPs failing to deliver at desired level to account.
8. Certain information on MPs (i.e. information regarding income-expenditure, properties, loan, income tax, and information on legal cases and the usage of development fund) needs to be disclosed on a regular basis. The Right to Information Act needs to be amended so that people can claim and receive information from the MPs. Information on MP’s participation in the assemblies and the parliamentary committees will have to be disclosed on a regular basis.
9. The awareness of the people regarding the roles and duties of MPs need to be raised. Awareness programmes need to be organized before the commencement of election campaigns. During election campaigns people have to be provided with comparative information on the candidates so that they can take informed decisions. This process will be strengthened with the participation of local citizens and institutions and local news-media as well as the support from the Election Commission.
10. Arranging regular ‘Face the Public’ events can help the transparency and accountability of MPs at the local level. This can act as a platform where people can learn about the activities of MPs and provide their opinion and raise questions on particular issues. Local citizens and institutions will have to take initiatives to facilitate these initiatives.
