mechanization and use of pre-fabricated materials is fast replacing labour, and women are the first to be evicted.

Health

Since January 2000 FDI in hospitals has been permissible up to 100 per cent under the automatic route. However, in spite of a very liberal investment policy, the presence of FDI in hospitals has been limited. It is believed that foreign investment in this sector can have significant effect on cost of service, manpower and quality of healthcare delivery. It can help in enhancing the physical capacity of the healthcare sector in terms of infrastructure development in bed strength, number of speciality and super-speciality centres, number of diagnostic centres etc, as well as play a significant role in raising the standards and quality of healthcare, in upgrading technology. Women can, additionally, gain from the creation of employment opportunities with increase in demand for doctors, nurses and other medical practitioners.

The concern in this sector, however, has more to do with accessibility and affordability of services. Highly specialized and costly healthcare delivery can widen the class and rural - urban divide: it has been noticed that so far foreign investment in hospitals has only been in the urban areas[25]. In the urban areas it may crowd out domestic as well as public investment. Crowding out public sector investment may affect government service delivery in the rural areas and for the poor, which can have more impact on the vulnerable- the women.

Banking[26]

Financial and banking activities fall under the services sector, which receives the highest amount of foreign investment[27] inflows. Inflows in this sector can help generate employment for women in the organized sector. However, it may not improve access of the marginalized communities to financial support. It is found that foreign banks in India have a high proportion of women account holders (23.8%) as compared to the national banks (14.9% in State Bank of India and its associate banks and 22.4% in other nationalized banks). However, their disbursement to women is the lowest at 7.9%. Comparatively, the Regional Rural Banks do much better, with 25.5% of women account holders and 19.6% of credit lending to women. Foreign banks do not extend lending facility in the rural areas and are also not required to do priority lending to women and in agriculture, unlike the national banks. [28]

Agro Industries

Within the field of agriculture, 100% automatic FDI is allowed in activities such as floriculture, horticulture, apiculture and cultivation of vegetables & mushrooms, under controlled conditions; development and production of seeds and planting material; animal husbandry, pisciculture, aquaculture, under controlled conditions; and, services related to agro and allied sectors. FDI in the agro based industries, it is argued, can curtail post harvest losses, improve quality of exports and make consumer prices cheaper through consolidation of ghanis, chakkis, puffing units, mills and solvent extraction plants, which are at present unorganized .FDI can bring benefits of the organized sector and provide the required support in finance, infrastructure – such as cold storage facilities and credit facilities. Investment in this sector is likely to benefit women engaged as agricultural labourers and in fish processing and plantations.[29] Use of modern technology may, however, replace traditional labour intensive technologies and so impact employment, particularly that of women. Additionally, production for export may be at the cost of domestic needs and requirements.

Foreign Investment and Domestic Policy Space[30]

There are two important areas of concern related to the mechanisms through which FDI is entering the country. The first relates to the fact that conditions on FDI, referred to as performance requirements (PRS), are getting increasingly diluted, either through the government's autonomous policies or through investment chapters in Free Trade Agreements. For example, the conditions imposed on allowing FDI into multi-brand retail are already getting diluted. The government has also increasingly removed conditions related to mandatory technology transfer, which is very important for domestic growth and for creating opportunities in SMEs where a lot of women work as entrepreneurs and employees.

The second concern stems from the fact that the Indian government has signed about 80 Bilateral Investment Agreements or Bilateral Investment Partnership Agreements (BITs/ BIPAs) which do not give market access to investors but gives them very strong protection and legal rights. While this was done and is seen by many as necessary for attracting FDI, others argue that this has severely limited the policy space of the government to regulate in national interest. Under BITs / BIPAs, foreign investors have the right to sue national governments (in secret arbitration in international tribunals) if they perceive any violation to their investment. Several public interest regulations by governments across the world have been challenged under such agreements. India too has already lost two major cases and faces several lawsuits launched by multinational companies.

This poses an emerging and significant challenge for future regulations that may adversely affect women's rights and space. For example, it may become difficult for the government to bring in future policy regulation in areas where regulation is still weak—such as surrogacy and medical tourism laws that impact women significantly. Women traditionally use and depend on natural resources, and evidence shows that such cases can affect access to these resources. The majority of the 25 known outstanding investor-state cases under US FTAs and BITs (totaling $11 billion in claims) relate to natural resource policies. Nearly half of the 129 cases pending at the World Bank's investment dispute facility relate to natural resources. (Burlington Resources vs. Ecuador, pending, reveals conflicts between government duties to protect human and indigenous rights, on the one hand, and obligations to protect foreign investors). Public health and environment provisions/regulations, areas on which women and children are critically dependent, are also being challenged globally. For example, in the case of Renco vs Peru, lead poisoning of 162 La Oroyan children led to the Peruvian government taking measures against the company but Renco sued Peru for $800 milllion under the US-Peru FTA.

Recommendations

FDI thus has mixed impact on the growth of the host country and on women, in particular. In order to maximize its benefits, policy context of foreign investment as well as domestic policy environment need to be such that they not only strengthen the domestic economy but also protect the rights of the employees and result in greater gender equity.

- Therefore, as a pre-condition to market access, foreign investors should be required to maintain a certain proportion of women in the workforce. Employment of women can also be incentivized by offering fiscal benefits to foreign companies employing a certain percentage of women. Women employment in MNCs and 'FDI led women dominated' industries can be incentivized by brand promotion of products made by women. [31]
- Foreign companies should be made to adhere to corporate social responsibility conditions such that they ensure safe and good working conditions even in the unorganised sector, such as contract employment and out-sourcing, which is widely prevalent in FDI-led industries.[32]
- FDI has led to feminization of the export oriented, labour intensive, low-skilled, unorganized sector work such as manufacturing of electronics, garments, footwear and textile production sector in most semi-industrialized countries.[33] Therefore, foreign investors must be expected to, as a pre-condition to investment, provide skill enhancement by providing additional training to the female workforce so as to enable their shift to more skilled jobs. [34]
- Further, there is a need for multilateral agreements to regulate physical capital movement as well as global labour standards. Incentive competition should also be regulated so as to control the negative effects of flight of capital to places of cheaper production costs.[35] Mobility of capital keeps the labour costs at minimum and the dependency on consumer markets, makes employment in production highly volatile and

insecure. Low-skilled jobs in developed countries are moved to developing countries due to the availability of cheaper labour. Relocation of capital in search of cheap labour assumes the existence of gender inequality which is then further exploited by the investors in order to maximize their profit.[36] An existing gender wage gap acts as an incentive for investment as it justifies crowding of women in the export production at low wages.

- The host country, on the other hand, must provide for social protection for women in the form of healthcare and childcare. Disproportionate distribution of non-market household work, which is borne particularly by women, gives rise to the systematic underestimation of women's productive potential in the market. "Women are primarily associated with the care and reproduction of the family, and much of their work time is spent outside of the market, whereas men's work is typically viewed as more directly productive and more fully incorporated into the market sphere."[37] Not only is there not a market reward for this non- market work, which is crucial for the reproduction of labour force, women are continually penalized for their engagement in such work, which makes them less mobile and flexible in terms of time and space. "Working for a wage has been widely documented as having empowerment benefits, but as long as women are constrained by their non-market sector responsibilities, there are limits to how far earning an income can improve their well-being and redress gender inequities".[38]
- The host country, India in this context, must also invest in providing education and market friendly skills to women and girls, such as training in English and computers, to enable them to get skilled jobs in the organized sector.[39] Sexual division of labour within the household along with institutional and social constraints in access to education, healthcare, public provision of child care determines whether women look for work and what types of work are considered suitable for them (i.e. their bargaining power in the market).
- The host country must enforce non-discriminatory practices in the labour market such that women are not left out of the more lucrative and senior position jobs.[40]
- It is important to tweak FDI inflows so that it flows to sectors where it is needed most and is invested in a way that benefits the host country to the maximum extent. In this regard, it is important to impose certain conditions on FDI so that it serves the interests of the host country, creates jobs and leads to transfer of technology, skills and practices from which the recipient population can benefit. Conditions can also be imposed to address the issues of inequalities that may stem from the natural operation of FDI (e.g. not going to urban areas).[41]
- While negotiating/signing international investment agreements (through FTAs, BITs, BIPAs) the host government must be allowed effective and usable policy space to enact future regulations in public interest for protecting public health, environment, natural resources, or in the interest of particular groups such as women, children, elderly, disabled and the economically poor.[42]

There is a need for research on the impact of foreign investment on gender. Existing research in this field has been limited to the growth of the unorganized manufacturing sector in developing countries; which has generated employment and wages for women but not led to gender equity, in fact may have worsened it. In India, on the other hand, the service sector has been the highest receiver of foreign investment. Women's participation in this sector, however, has been limited. They continue to be dominant in the primary sector, which has not been an active ground for foreign investment. Additionally, there is no clear relationship between foreign investment and women employment; states with the highest percentage of foreign investment in the country do not have the highest percentage of employment for urban women.[43] There is thus a need for scholarship in this field in India. Additionally, for FDI to work towards gender equity there is a need to tweak it to the specific needs of the host country along with providing for supporting policies.[44]

Endnotes

[1] Braunsten, Elissa. "Gender, FDI and Women's Autonomy: A Research Note on Empirical Analysis". Prepared for International Center for Research on Women conference on Linkages Between Trade Liberalization, Women's Employment, and Reproductive Health, Washington, DC, April 8-9, 2002.

[2] Source: The World Bank. http://data.worldbank.org/indicator/BX.KLT.DINV.CD.WD. Accessed on 24th June, 2013.

[3] Arpita Mukherjee states that the service sector FDI in India is market seeking, which will generate employment in the process. However, FDI is not the only factor that affects employment; there are several other factors - culture, education, government policy, to name a few - that determine women's participation in the workforce. (GEP Discussion Forum VII, April 2013)

[4] Braunstein, Elissa. "Foreign Direct Investment, Development and Gender Equity: A Review of Research and Policy". UNRISD, OPGP12: 5.

[5] Anandi Venkateswaran at GEP Discussion Forum VII, April 2013.

[6] Prior to 1991, a sense of paranoia prevailed regarding foreign ownership of domestic industries as a consequence of the historical experience of imperialism. In the post independence era FDI was sought to develop the domestic base in terms of technology, skills, entrepreneurship, etc., although with majority local ownership. In the late 1960s with the development of the domestic base and sharp increase in outward remittances in the form of dividends, profits, royalties, technical fees and for technology imports, the government imposed certain restrictions on FDIs. 1973 onwards the activities of foreign countries were restricted to high priority industries such as high technology sectors, tea plantations, and export oriented sectors. With the aim to modernize industry, changes were adopted in the FDI policy by liberalizing license rules, making exemptions regarding foreign equity requirements, 100% export oriented units and flexibility in foreign ownership.

[7] Nidhi companies, registered under section 620-A of the Companies Act (1956), are classified as Mutual Benefit Financial Companies.

[8] Source: Reserve Bank of India. http://rbi.org.in/scripts/FAQView.aspx?Id=26. Accessed on June 24th, 2013.

[9] Ranja Sengupta at GEP Discussion Forum VII, April 2013.

[10] Investing on its own and subsequently routing through Mauritius to minimize tax liability through the Double Taxation Avoidance Agreement signed between India and Mauritius.

[11] Kumar, Nagesh. "Liberalization, Foreign Direct Investment Flows and Development: Indian Experience in the 1990s". Economic and Political Weekly XL, No. 14, 2 April 2005: 1459-69.

[12] Source: Department of Industrial Policy & Promotion, Government of India, "Fact sheet on Foreign Direct Investment (FDI) from APRIL, 2000 to MARCH, 2013". Accessed on August 1st, 2013. http://dipp.nic.in/English/Publications/FDI_Statistics/2013/india_FDI_March2013.pdf. India is often compared to China in terms of attracting FDI. Presence of democracy, western style financial and legal institutions, widespread knowledge of English, is believed to make India more attractive to foreign investors but it holds only one-tenth of the volume of FDIs in China. Balsasubramanyam and Sapsford explain that the difference is due to the difference in the structure and nature of economic activity in the two countries. China attracts investors for production and export related (manufacturing) activities with the availability of low cost labour. Availability of skilled people with tertiary level of education, on the other hand, attract foreign firms specializing in science and technology and services to India. The composition of the Indian economy in terms of manufacturing and services explains the low volume of FDI in India as compared to China.

[13] Share of total employment: primary sector (agriculture and fishing) =53.2%, secondary sector (industry) = 21.5%; share of women employment: primary = 69.6%, secondary = 16.3%.

[14] Arpita Mukherjee and Deboshree Ghosh based on NSSO 2009-10 for GEP Discussion Forum VII, April 2013.

[15] Source: Department of Industrial Policy & Promotion, Government of India, "Fact sheet on Foreign Direct Investment (FDI) from APRIL, 2000 to MARCH, 2013". Accessed on August 1st, 2013. http://dipp.nic.in/English/Publications/FDI_Statistics/2013/india_FDI_March2013.pdf.

[16] Durano, Marina. "Foreign Direct Investment and Its Impact on Gender Relations", July 2002, WIDE Info Sheet. (Available at www.wide network.org).

[17] Arpita Mukherjee at GEP Discussion Forum VII, April 2013.

[18] In 1997, 100% FDI participation in wholesale cash and carry business was allowed under the government route and in 2006 it was allowed under the automatic route.

[19] The government is now set to revise the conditions imposed on multi-brand retail. "The revised policy is expected to state that the 'small industry' status will be reckoned only at the time of first engagement with the retailer and such industry shall continue to qualify as a 'small industry' for this purpose even if it outgrows the said investment of $2 million during the course of its relationship with the said retailer… The government is expected to provide a window of three-years to the foreign multi-brand retailer to invest 50% of the first tranche on $100 million, leaving ample scope for the retailer to invest more if required…. (T)he government is expected to allow setting up of retail stores even in the 10 kilometer area within the municipal limits of a town with a population of over 1million." Source: Financial Express Bureau, "Cabinet to take up FDI policy on multi-brand retail today," The Financial Express August 1st, 2013. Accessed on August 1st, 2013. http://www.financialexpress.com/news/cabinet-to-take-up-fdi-policy-on-multibrand-retail-today/1149489/0

[20] Decline of the rural economy along with lack of employment in the manufacturing sector in the post reform period is said to have created a pool of surplus labour that fuelled the unorganized retail sector. Source: Suvrata Chowdhary, "FDI in Retail: What it entails?" The Hindu February 2, 2013. Accessed on August 1st 2013. http://www.thehindu.com/opinion/op-ed/fdi-in-retail-what-it-entails/article4372020.ece?css=print

[21] Ranja Sengupta and Anandi Venkateswaran at GEP Discussion Forum VII, April 2013. Female employment in retail as a percentage of total employment in the sector reduced from 11.25% to 9.47%; share of retail in total female employment in services declined from 22.85% to 16.63% between 1999-00 to 2004-05.

[22] Ranja Sengupta at GEP Discussion Forum VII, April 2013.

[23] Anandi Venkateswaran at GEP Discussion Forum VII, April 2013.

[24] Arpita Mukherjee at GEP Discussion Forum VII, April 2013.

[25] Ranja Sengupta at GEP Discussion Forum VII, April 2013.

[26] Ibid.

[27] Under the automatic route FDI in private banking is allowed up to 49%, beyond 49% and up to 74% government approval is required; in public banking it is allowed up to 20% under the government approval route.

[28] Foreign banks in general are risk avoiders, investing only in urban-developed regions of countries with stable economies. Women are viewed as risky borrowers-they are not backed by economic assets and their income earning potential is considered an unstable one. Women have to work harder to establish their credibility, compared to men.

[29] Anandi Venkateswaran at GEP Discussion Forum VII, April 2013.

[30] Ranja Sengupta at GEP Discussion Forum VII, April 2013.

[31] Anandi Venkateswaran at GEP Discussion Forum VII, April 2013.

[32] Ibid.

[33] Employing women in such activities is believed to satisfy two conditions: it keeps the labour costs down and the docility, flexibility, obedience, reliability and trainability of women ensures unproblematic pursuit of tedious tasks in poor working conditions and with long hours. This occupational segregation is argued to be the main source of the gender wage gap. Prevalence of sub-contracting and outsourcing in the sector to small manufacturing units in the informal sector or a shift from semi-permanent employment to piece rate casual work further reduces production costs as well as prevents women from organizing themselves to build up bargaining power.

[34] Braunstein, Elissa. "Foreign Direct Investment, Development and Gender Equity: A Review of Research and Policy". UNRISD, OPGP12

[35] Ibid.

[36] This has been argued to be the reason for growth in Asia.

[37] Braunstein, Elissa. "Gender, FDI and Women's Autonomy: A Research Note on Empirical Analysis". pg 9

[38] Braunstein, Elissa. " Foreign Direct Investment, Development And Gender Equity: A Review Of Research And Policy", United Nations Research Institute For Social Development, OPGP12, pg 32

[39] Anandi Venkateswaran GEP Discussion Forum VII, April 2013.

[40] Braunstein, Elissa. "Foreign Direct Investment, Development And Gender Equity: A Review Of Research And Policy", United Nations Research Institute For Social Development, OPGP12

[41] Ranja Sengupta at GEP Discussion Forum VII, April 2013.

[42] Ibid.

[43] Maharashtra, Dadra Nagar Haveli and Daman receive the highest percentage of foreign investment, followed by Delhi, Uttar Pradesh and Haryana and the least in the North East states of the country. Urban women employment percentage, however, is the highest in the north eastern states. Arpita Mukherjee and Deboshree Ghosh based on DIPP 2012 and NSSO 2009-10 for at GEP Discussion Forum VII, April 2013.

[44] Ranja Sengupta at GEP Discussion Forum VII, April 2013.

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