CHAPTER III

EVOLUTION OF SELF FINANCING COLLEGES IN KERALA

In the previous chapter a detailed analysis of the development of education in Kerala was made to understand the uniqueness of the Kerala education system. This was made to situate the present study in its proper context. In this chapter, we propose to make a more detailed study of self-financing professional education in Kerala in general and the government policy in particular. In fact the new trend has a history of a decade only. However the education system was evolved in Kerala in accordance with the socio-economic and political development of the region. In other words, the changes in the education system in Kerala is actually an output of the changes occurred in the socio-economic and political structure of the state. But this tradition has been drastically altered in the contemporary times. Along with the endogenous factors which brought about this shift, exogenous factors also played a big role in this transformation. Among the exogenous reasons influence of neo-liberal policies vis-à-vis education assumes great relevance. However, privatization of education or private participation in educational development is not a new phenomenon in the case of Kerala. But the state intervention was very strong. However globalization policies altered the scenario.

Self-financing Education and Neo-liberal Policies

The changing trends of education policies shall be viewed against the backdrop of the changes at the national level, more particularly the changing role of State vis-à-vis economy, finance and development. The changing policy framework endorses the view that more than a public service (which is responsible on the one hand for providing young people with the skills needed for economic success) education is considered as a tradable commodity. An understanding of the past, of culture, and of democratic values, among other elements of education, is part of education, and these elements cannot be subsumed in the working of global market place. However, the privatization of higher education driven by the motive of profiteering has much less interest in the maintenance of such traditions. The move towards privatization was supported by an influential section of the Indian middle class that can today realize the
perceived benefits of increased access to the emerging tendency of internationalization of the labour markets for selected professions.

Higher education system faced a massive cut in public expenditure consequent to globalization since 1990s. A bill viz., Private Universities (Establishment and Regulation) Bill was introduced in Rajya Sabha in August 1995. The statement of objects and reasons of the Bill clearly points out that the private universities will be “self-financing universities not requiring any financial support from the government.” In 1997, the Finance Ministry proposed in ‘Government Subsidies in India: Discussion Paper’ that higher education including secondary education as a “non – merit good” for which the government subsidies needed to be drastically cut.

During the NDA regime, UGC tried to grant autonomous status to colleges with complete liberty in managing financial and academic matters. In 1999, the UGC tried to identify around 200 ‘first rate’ colleges which would be invited to apply for autonomous status. According to the scheme, an autonomous college will have the freedom to determine and prescribe its own courses of study and syllabi, introduce new courses, rename obsolete courses by changing their content and update existing courses, prescribe rules of admission to suit its aim etc. Such a college would be free to start under – graduate and post – graduate diplomas or certificate courses and special need based short-term courses for the students of the college and can also be taken by outsiders. The decision of the academic council of the autonomous college will be final and not be subject to any further ratification by any statutory body of the University. The scheme was a prelude to the state’s withdrawal from these colleges and permitting them to become commercial in order to raise resources.

The NDA government constituted a ‘special subject group on policy framework for private investment in education, health and rural development’. The Prime Minister found no experts in the concerned areas but the noted industrialists, Mukesh Ambani (Convenor) and Kumarmangalam Birla (Member) to constitute this special subject group. These two industrialists submitted their report namely ‘A Policy Framework for Reforms in Education’ to the PMCTI on April 24, 2000. They considered higher education as a very profitable market.
They made a case for full cost recovery from students and immediate privatization of entire higher education except those areas of education involving “liberal arts and performing arts.” Ambani – Birla Report sought to convert the entire system of higher education in the country into a market where profit making will be the only consideration. As a result, only those who will be able to pay exorbitant amount of fee will be enrolled in higher education.

The UGC issued a Concept Paper in October 2003 entitled “Towards Formulation of Model Act for Universities of the 21st Century in India” with a view “to prepare the Indian University system for the future.” This paper advocated “commercial culture and corporate culture” for the governance of universities. The concept of the Model Act was to actually implement the plan of commercialization of higher education as proposed by the Birla – Ambani report. All these prove that education is becoming an internationally traded commodity. Globalization of higher education is detectable in expanding trade in higher education, the growing influence of international actors in the regulation of higher education such as the WTO and the World Bank as well as many multinational corporations. The government is now trying to give its initial proposals in order to bring higher education under the General Agreement in Trade in Service (GATS). The GATS is a legally enforceable instrument which can be used against the welfare policies of a member government in the field of education as well. It will also lead to commercialization of higher education.

Self-financing Colleges in Kerala – Meaning and Efforts

Self-financing colleges are institutions established under the auspices of registered societies or trusts with their own funds and without any financial assistance from the government. The capital of the running of the institution is raised mostly in the form of fees collected from students who opt to get admission there. The function of the government is to give an NOC to start the institution. Once the NOC is given, the all India Councils (eg. MCI, AICTE, INC formed after a Government of India Act, to maintain quality of education imparted by professional institutions) conduct an on the spot inspection to verify whether all the requirements are satisfied by the proposed institution. If all India Council is satisfied with the facilities provided, permission is granted to start the institution.
The institution is required to get affiliation from a University as well. The capital required for starting self-financing colleges make huge amount. Most state governments are unable to invest such huge amount to satisfy the increasing demand for professional seats.

After 1980 the Indian economy has witnessed an unprecedented growth. The demand for professional in all fields registered new heights. Encouraged by these circumstances, there was an out flow of students to professional colleges in the neighbouring states. Such an exodus of students to the neighbouring states caused huge drain of money from Kerala as capitation fees and various other fees in professional colleges outside the state. In these circumstances, the public opinion was strong in favor of establishing professional colleges in large numbers in Kerala in the self-financing sector.

The first attempt of the government was by giving NOC to semi governmental organizations like IHRD, Co-operative Academy and various Universities to set up professional colleges. Even then, the increase in number of professional seats was not enough to cope with the huge demand from students for professional studies. Despite all these efforts, by the year 2000 there were only four medical colleges and twenty three engineering colleges in the state. The new generation of self-financing professional colleges began to be established in Kerala in 2001. This was made possible by P.J. Joseph, Minister for education in the Left Democratic Front government (1996-2001). The Department of Education gave NOC to 21 engineering colleges which satisfied all the essential requirements stipulated by the AICTE. This decision by the education department was immediately withdrawn by the ministry and the same was procedures to inspect and approve the institutions by then, it informed the state government that cancellation of the NOC’s at that juncture was not in order. After inspection by AICTE visiting teams, letters of approval to 10 engineering colleges were handed over by the apex body. The general election to the Kerala State Assembly was held and the new UDF (2001-2006) ministry under A.K. Antony came to power. The new ministry also was not infavour of giving final sanction to the new colleges but because of intervention by Hon. High Court of Kerala, the colleges were allowed to start functioning in 2001.
Influencing Factors

1. Economic Factors

a. Growth Trends in Disposable Income

The capacity of the households to meet the increasing private costs of education depends, to some extent, on the household income. In the 1960s, 1970s and the 1980s, the growth in per capita Net State Domestic Product (NSDP) was quite low. But Kerala economy has been coming out of the stagnation phase from 1987-88 onwards. In addition to the increasing income originating within the state, there was also a large quantum of remittances received from the out migrants (to other states) and emigrants (to other countries) from Kerala. The importance of migration to Kerala economy may be gauged from the fact that one-fourth of the households have a non-resident Keralite. The annual remittances from the emigrants increased from Rs 13,652 crore in 1999 to Rs 18,465 crore in 2003 and further to 24,269 crore in 2006-07. It is estimated that the remittances to Kerala from its emigrants of other countries alone were equivalent to one-fifth of NSDP (Zachariah and Rajan 2007). This flow of income made a large number of households capable of pursuing education. But this increase in financial capacity was not shared by all households. The distribution of income from both domestic production and remittances has been quite uneven.

b. Fiscal Crisis and Change in Priorities

The capacity of a section of households for spending has been increasing due to a number of factors. The Government’s capacity and willingness for public spending on education has been coming down. Despite the large volume of external remittances to the state and despite the recovery of its economy in the 1990s, the state government has been facing recurrent fiscal crisis. This has been adduced as a major reason by the state government for reducing budget allocation to the education sector. The state sought to reduce revenue deficit by drastic compression of expenditure rather than by raising additional resources. In fact, the own revenue of the state in relation to its SDP declined from 1989-90 onwards. The state’s own resource mobilization efforts were lower in the 1990s than in the 1980s despite the turnaround of the economy. The decrease in central revenue transfers also contributed to the fiscal crisis. The high growth in per
capita income, increased flow of external remittances, the reduced size of the households and the lower number of children have increased the capacity of a large number of households to bear a larger share of the cost of education. But despite these favorable developments, the rate of recovery of revenue expenditure on education by way of fees has been coming down. This declining cost recovery aggravated, to some extent, the financial crisis of both the government and the educational institutions.

c. Declining Share of Public Expenditure on Education.

Public expenditure on education remained high when the state income was growing very slowly. Kerala’s development experience, therefore, used to be described in the past as the paradox of high degree of social development despite low rates of economic growth. But when the economy started growing, the state shifted its priorities away from education. As a result, the state reduced the share of education in its total expenditure (revenue and capital). The reduction in government expenditure affected all types of expenditures, particularly the plan expenditure and the capital expenditure. This drastic reduction in plan expenditure as well as capital expenditure prevented the government from expanding capacity of government owned and government aided institutions in the higher education and technical education sectors when the demand for them was growing. This vacuum was filled initially by the self-financing institutions in other states to which there was a massive exodus of students from Kerala. Later on, the newly established self-financing institutions within the state met this demand. The government considered the starting of large number of such institutions as a softer option.

Kerala, in contrast to other states in India, experienced a high level of social development in the recent past with the exception of the low increase in per capita income. The state has followed a path different from the rest of the country. Elsewhere, development progressed from agricultural sector (primary) to the industrial sector (secondary) to the service sector (tertiary). In Kerala, because of the emphasis given on social services, the service sector (tertiary) has marched ahead of the industrial and agricultural sectors. Moreover, due to a variety of reasons the agricultural sector in Kerala started declining. This peculiar feature of
2. Political Factor

Like socio-economic factors, there are some political reasons behind the privatization of higher education in Kerala, especially the origin of self-financing professional colleges. Unlike Indian political system, Kerala witnessed a strong bipolar coalition system since the formation of the state and it continued thereafter. The bipolar coalition system was led under the leadership of Congress and the CPI (M)’s respectively. Besides the two big political parties, there are also powerful regional political parties, which have been using the minority politics fanning communal sentiments for their electoral success. Except on two occasions, the education department was fully under the control of regional political parties, who were acting on the basis of minority politics. This kind of administration of education led to the development of private sector, including self-financing sector, under the label of ‘minority rights’. The minorities constitute 45% of the population in Kerala. They also exorbitantly used the constitutional provisions relating to minority rights for legal protection of these institutions and they commercialized the education sector. Thus a peculiar combination of commercialization and communalization of the education process is being witnessed in the contemporary politics of the state. Therefore the political economy issue of education has multi dimensions non comparable to other states.

3. Influence of Neighbouring States

After 1990s the demand for professionals in all fields registered new heights. Coupled with this, the need for doctors, IT professionals and nurses in advanced counties opened new avenues of opportunities. Kerala could not arrest the unprecedented flow of students to professional education. On account of this shortage of professional colleges in the state, the neighbouring states like Karnataka, Tamilnadu and Andhrapradesh took up this opportunity and allowed individuals and various communities to start professional colleges in the self-financing sector. As a result they have achieved two things. They have developed strong professional educational institutions without spending even single paise from the Government coffers; secondly, they provided admission to large number
of students from all over India especially from Kerala. Consequently these states have become the hubs of professional education in the country. Encouraged by this circumstance, there was an outflow of students to professional colleges in the neighboring states. Such an exodus of students to the neighboring states caused huge drain of money from Kerala as capitation fee and various other fees in professional colleges outside the state.\(^{29}\) In these circumstances, the public opinion was in favor of establishing professional colleges in large numbers in Kerala in the self-financing sector.

4. Influence of Middle Class

Among the developing economies of the world, Kerala has attracted global attention for its high social development coupled with low economic growth, which is sometimes referred to as a paradox of the Kerala Model of Development.\(^{30}\) The Kerala Model of Development created a large middle class in Kerala. The expansion of unaided/self-financing system can be traced partly to the emergence of a new middle class in the state. An indication of the emergence of this middle class can be seen from the large proportion of households owning luxury goods such as large houses, automobiles, jewellery, telephones, television sets, etc. This proportion is much higher in Kerala than in the country as a whole (NSSO 2007). This emerging middle class is both prepared for and is capable of buying its space in the educational sector. Most of the middle class think about making his/her children a doctor or an engineer. Therefore, they are ready to spend huge amount of money for a medical or an engineering seat.\(^{31}\) Many of the less educated but rich members of this class find education as a means for social mobility and respectability. There is a growing tendency for the middle class to opt out of the government-owned and aided educational system avowedly because of its low quality, but also due to social reasons. This tendency to quit the government system of education by the vocal and influential middle class, in turn, has led to further deterioration of the system and the expansion of the unaided sector. A vicious circle thus seems to be closing in. Put it in other words, large sections of the people of Kerala are gradually losing their stakes in the government system whether it is of education or healthcare. This, in turn, has led to their unwillingness to pay for these public services. It is this vocal segment of
population with increasing political influence and financial clout, which now sets the agenda in the discourses on education and politics in the state. This, in turn, has led to the shifting of priorities of public spending away from social services, which the middle class is no longer availing.\textsuperscript{32}

There are a number of factors behind the formation of the middle class. Higher education itself has helped the formation of this class. Those who have received higher education, thanks to the large subsidy from the government in the past, have themselves moved into the new middle class. The growth of commercial agriculture and employment in industry and the service sectors has also contributed to the growth of this class. Land reforms helped the erstwhile tenants who were mostly belonging to middle castes and communities to throw away the feudal yoke and to become middle peasants.\textsuperscript{33} International migration has also helped in the formation of the middle class. Expanding educational opportunities irrespective of regions, gender, castes and classes, was top most in the agenda of all the political parties in the past. State funding of education directly or through liberal grants-in-aid to private agencies (an earlier version of today’s public-private participation) helped the process of expanding educational opportunities.\textsuperscript{34} The values and practices of middle class in Kerala is being emulated by lower classes as well. Despite economic empowerment the middle class aspiration of this set of people impact upon the dynamics of state politics. Moreover, the need for subsidizing education by the government was not a contested issue among the political parties.

5. Influence of Caste/Communal Organizations

Due to historical reasons, both the demand for and supply of educational opportunities were created largely by religious groups and community organizations. The educational development in the state was spearheaded by Christian missionaries, local parishes, Nair Service Society (NSS), Sree Narayana Dharma Paripalana Yogam (SNDP) and the Muslim Educational Society. These agencies were guided by the educational and social needs of both their own communities and the society around. Some of these private agencies were instrumental in taking education to backward regions, castes and socially and economically disadvantaged groups. Girls’ education was also promoted by some
of these agencies. The resources for starting schools and colleges were mobilized from the locality or from within the community using a variety of very ingenious techniques. Fees from the students constituted only one of the resources meant to meet at best, the recurrent expenditure. In other words, privatization did not lead to commercialization of education. The state supported these agencies in a number of ways. As in the case of political parties, the present leadership of these community organizations, which were formed in the wake of the social reform movements, no longer has got any lofty agenda. Unlike the earlier leaders of these organizations, the new leaders lack a clear vision regarding the desirable course for Kerala society.35 New initiatives to address the educational needs of the marginalized communities and the poor even in their own communities seldom comes from these community organizations.

All the religious and caste organizations in the course of time developed into pressure groups. From the very beginning, they had developed a strong clout in Kerala politics. In fact, new political parties have been formed, largely to protect the interests of some of these communities. In Kerala, the sum total of Christian and Muslim population is around 45% of the total population of the state.36 The politics of Kerala thus came to be dominated by these organizations, which had developed a vested interest in the issue of ownership and control of educational institutions and not on the education of the deprived. The political clout of the educational agencies and communal organizations was so strong that it could defeat all attempts to curtail the unhealthy labour practices of the private managements, made repeatedly by the rulers of Travancore and subsequently by both the Communist and Congress governments. As a result, none of the governments, whether under United Democratic Front (UDF) or Left Democratic Front (LDF) has been able to curtail the widespread corruption, nepotism and communalization in appointment of teachers in aided schools and colleges.37 Since a large number of educational institutions are run by minority religious groups like Christians and Muslims, the minority rights enshrined in the Constitution become an added weapon to protect their community and economic interests in education.38 The increase in corruption and the nepotism in the appointment of
teachers in private educational institutions has also led to the exclusion of students from poor economic backgrounds to enter the teaching profession.

Table 3.1
Distribution of Colleges by Management in Kerala in 1993-1994

<table>
<thead>
<tr>
<th>Management</th>
<th>Arts and Science</th>
<th>Training</th>
<th>Engineering</th>
</tr>
</thead>
<tbody>
<tr>
<td>Government</td>
<td>40</td>
<td>4</td>
<td>6</td>
</tr>
<tr>
<td>Private Aided</td>
<td>133</td>
<td>15</td>
<td>3</td>
</tr>
<tr>
<td>a) N.S.S.</td>
<td>14</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>b) S.N</td>
<td>15</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>c) Other Hindu</td>
<td>15</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>d) Christian Catholic</td>
<td>48</td>
<td>6</td>
<td>1</td>
</tr>
<tr>
<td>e) Christian Non Catholic</td>
<td>21</td>
<td>3</td>
<td>0</td>
</tr>
<tr>
<td>f) Muslim-MES</td>
<td>6</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>g) Other Muslim</td>
<td>9</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>h) Other Private</td>
<td>5</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Total</td>
<td>173</td>
<td>19</td>
<td>9</td>
</tr>
</tbody>
</table>


Media Coverage on Self-financing Colleges

In the present day society, one cannot envision a day without media, electronic, print and the social networking. Media, which is the major influencing part of the civil society to create public opinion, widely support the privatization and commercialization of higher education in Kerala. The major newspapers and channels played a major role to create public opinion in favor of the self-financing professional colleges and attain soaps from the government’s policy for opening more professional colleges in the self-financing sector. The increasing number of professional colleges is also accepted as a symbol of development. Moreover, the growth of self-financing sector with in the state is believed to be helpful to check the flow of money from Kerala to its neighbor states, for instance, Karnataka,
Tamil Nadu and Andhra Pradesh.\textsuperscript{39} The self-financing professional education is also considered as having potential to create more job opportunities for the Malayalees. In a highly media literate society such a public opinion has greater acceptance among the people.

**Government Policies**

In Kerala, like anywhere else in India, the high achievers from schools almost invariably enroll for courses in higher education including professional courses.\textsuperscript{40} It is pointed out that the per capita expenditure of the government in the education sector, especially in the higher education sector, has been declining over the years and today it is one of the lowest in the country. The result is the increasing role of private sector in higher education. Recent changes in education policies led to a mushroom growth of self-financing institutions in the higher education, particularly in the professional education.\textsuperscript{41}

A large number of engineering, medical and other professional colleges have been established in the state recently. Different universities in the state also started more technical courses. Consequently, the technical education's infrastructure witnessed tremendous expansion during 1997-2003. Majority of the colleges established in this period were in the self-financing sector. One of the major problems highlighted for supporting the sanction for more technical institutions was the mismatch between demand and availability.\textsuperscript{42} The mismatch was more pronounced in the area of technical and professional education. The technical and professional education had a very narrow base. It is worked out that the percentage of seats in engineering colleges per thousand of Plus Two students who hold a first class was only 23\% against 27.1\% in the country during the 1990s. In this respect Kerala lagged behind many a state of India. Only one of seven applicants was admitted to engineering colleges, one out of ten in polytechnics and one out of 30 in medical colleges. In the courses of paramedical, teaching, hotel management and management, the situation is worse.\textsuperscript{43} In matters of policy both the right wing UDF government and left wing LDF governments were more or less the same, but the debate and discussion over its socio-economic impact is still continuing.
Self-financing Education: Diverging Perceptions

Privatization of higher education in India is a widely debated topic. Both the academia and the policy makers hold contradictory views about privatization of education, especially higher education. Those who support privatization hold this view because they believe that the state does not sufficient funds to finance higher education and that through private initiatives alone there could be any improvement in the standard of colleges and universities, which are in a state of complete decay. Similar view has been expressed by the ‘Ambani- Birla Committee’ set up by Prime Minister’s Office during the rule of NDA. It calls for a new vision for higher education, conversion of education into an industry and promotion of private universities with separate fee structure and autonomy. It stipulates that the UGC should curtail financing higher education except in the field of liberal arts. It is important to note that entire thrust is given upon engineering, medical and management education. The reason behind it is clear that the humanities and social sciences have no commercial value in the contemporary times. The self-financing college issue is not Kerala centric, it is an issue in all states but in Kerala it is much worse because of politicization.

Hot debates are also going on about the question, whether the higher education is a merit goods or non-merit good. In 1997, Government of India identified a large set of social and economic services, classified them into public goods, merit goods and non-merit goods, and proposed to reduce subsidies to non-merit goods. According this new typology education up to elementary level is considered as merit good and education beyond elementary level, i.e. secondary and higher education are labeled as non-merit goods. Primary education, public health, social welfare schemes etc. are called merit goods, because the benefits of this do not stop at immediate recipients. Policy makers contend that subsidizing higher education would not meet the interests of equity because the recipient and beneficiary in this case were the same.

The critics of self-financing education hold on their arguments on the basis of ethical and developmental considerations. Generally, the expense of education is met out of public exchequer even in the rich/capitalist countries. Fabulous state subsidies are the spinal chord of their higher education system. The critics suggest
that education should be considered as a public good and higher education at least as a quasi-public good, producing a wide variety and huge magnitude of externalities. Consumers of education confer external benefits on those who are not acquiring education. The social benefit of having a large population which has free access to higher education is to be considered as a positive index of development. It is also argued that social benefits of education cannot be reduced to individual self interest. Hence, by taxing those who receive these benefits and subsidizing the provision of education, the welfare of both groups and thereby the society as a whole, can be assured. State support to higher education is advocated on the grounds of providing equality of opportunity also. Ensuring equality of opportunity in education to everyone irrespective of socio-economic status is considered an important function of the modern state.

Education is to be understood as an effective instrument of equity. In the absence of state subsidies, only those who could afford to pay would enroll in educational institutions, especially higher education. The concern for equality of opportunity has contributed to develop a consensus in all modern democratic societies about government subsidizing the education. But globalization altered this consensus to a great extent. Importantly, the neo-liberal policies hold a different perspective of higher education when compared to that of Keynesian welfare state model. Prior to globalization, education was viewed from the vantage point of its social utility. But, at present it is assessed on the basis of market value. This change in perspective affects not only the ownership pattern of institutions of higher education, but also the perception of education itself. As commercialization is gaining momentum educational policies also began to promote those courses and streams which have greater market value. The best example would be the surge in IT education in countries like India at present.

The changing trends of higher education in Kerala rightly reflect those occurred at the national level. But unlike other states, issues relating to this invoke wider social debates due to a strong civil society. However, private participation in education is not a new thing in Kerala, which has the history of more than a century. But, the current controversy is related to rapid commercialization of higher education and the decline of social values and quality in this sector.
Concerns are also raised about private managements of education since most of them are solely motivated by the interest in making profit ignoring social responsibility. Privatization of education with a hidden agenda of commercialization is tantamount to convert education into industry and business. This is more so in the case of professional education in Kerala, since the managements are greatly enthusiastic about profitability. In a society like Kerala, where the educational achievement had been a part of the long history of social mobilization, obviously these debates become vibrant and widespread. The estimation of politicians regarding financing of higher education in Kerala is shown in the following figure.

![Figure 3.1](image)

**Figure 3.1**

Perception on Strengthening Self-financing Education in Kerala

Source: The Survey, 2007-2008

The empirical study shows that out of the total respondents, 35% opined that UDF is responsible for strengthening self-financing education in Kerala, where as 30% responded that LDF is responsible for the scenario. At the sometime, 35% of the respondents commented that both are responsible. From the above data we can see that there exists limited difference between LDF and UDF on the issue.

**Perception of Political Parties in Kerala**

Kerala politics is noteworthy for the right ideological divisions prevailing among the political parties. Political parties in Kerala except BJP and BSP are
divided into two coalitions, United Democratic Front (UDF) led by Indian National Congress and Left Democratic Front (LDF) led by CPI (M). Since the early 1980s, when the two fronts were formed, they have been alternately coming to power in the last two decades. Muslim League and a few Kerala Congresses, which are known for their communal background and direct link with private managements, are the constituents of the UDF. Obviously, the fact that their support is crucial to the existence of UDF is a reason for the soft approach of the united front towards the private managements. Since class politics enjoyed a tradition in Kerala, ideological politics has also been very strong. Naturally, this peculiar feature of Kerala politics is reflected in the debates over the self-financing education also. The opinion of politicians regarding the progress of education sector through self-financing colleges is shown in the following figure.

**Figure 3.2**
Self-financing Colleges and the Progress of Education Sector in Kerala

![Graph showing percentages of respondents regarding self-financing colleges](image)

Source: The Survey, 2007-2008

According to the above figure 35% of the respondents remarked that self-financing colleges are essential for the progress of education sector in the state. However, 30% felt that self-financing colleges are not essential for the progress of education. At the same time, 35% opined that self-financing colleges are needed for the progress of education sector to some extent. It is clear from the figure that majority of the respondents supported self-financing colleges. This shows the changing mind of Kerala society in accepting self-financing education sector. One
major reason is that today parents are giving more importance to the education of their wards. Most of the middle class in Kerala think about making their children a doctor, an engineer or an IT professional. So they spent huge amount of money for admission in self-financing professional colleges.

**The United Democratic Front**

The United Democratic Front in Kerala is a coalition of Indian National Congress and communal and sub-regional political parties, mainly Muslim League and factions of Kerala Congress. This front functions as the right wing in Kerala politics. Indian National Congress doesn’t have ideological issue vis-à-vis the self-financing education. Therefore, it shows little hesitation to succumbing to the pressure from Kerala Congress and Muslim League as well as the dominant pressure groups. It is worth mentioning that the Congress party in Kerala was a coalition of various social pressure groups from the origin itself. Therefore, compared to the CPI (M), it has no ideological inhibition to consult the caste/communal pressure groups in policy making.

The first instance of establishing a self-financing professional college (in the co-operative sector) was initiated by the UDF government of 1991-1996. The government gave permission to a co-operative self-financing medical college at Pariyaram in North Malabar. However, when the LDF came to power in 1996 the CPI (M) shifted their earlier position on self-financing education. The Left front gave green signal to self-financing education on the condition that preference should be given to governmental and semi-governmental agencies, for instance, universities and cooperative bodies, and that the self-financing education should be under ‘social control’. A committee of the LDF led by M.A. Baby (the former Education Minister of Kerala) was deputed to study similar experiments of the Government of West Bengal. However, liberalization of higher education reached its zenith during the UDF government of 2001-2006.

The UDF government of A. K. Antony gave NOCs to everyone who sought for government’s permission to start self-financing colleges. The LDF government (2006) was also struggling with this issue which is currently entangled in legal controversies. The Congress and its allies have more or less similar views on self-financing education. The UDF came to power in 2001 when
the right wing political parties and caste communal groups were waiting for liberalization of professional education. While generously permitting all the bidders to start the colleges the government put forward only one condition that 50% of the seats should be earmarked for government quota. This policy was suggested to ensure that two self-financing colleges would be equal to one Government College. 59

Among other minor efforts to ensure social responsibility of the private sector the UDF government appointed two independent commissions – one for Fee Regulation commission and the other for regulation of admission procedure. Both of them were headed by Justice KT Thomas. 60 However, it was not at the sole initiative of the government but such a commission was mandatory after the verdict of the Supreme Court in the Islamic Academy of education case. 61 Surprisingly, when the UDF government passed the Kerala Self-financing Professional Colleges (Prohibition of Capitation Fees and Procedure for Admission and Fixation of Fees) Act 2004, there was no provision for instituting a commission to regulate fee and admission. Instead it also stopped the functioning of K. T. Thomas Committee which was performing similar functions earlier. 62 It shows UDF’s soft corner towards private managements.

The UDF leadership justified the policy by a couple of arguments: Firstly, it would help to check the flow of money from Kerala to the neighboring states, which otherwise is spent by the parents to get admission in self-financing colleges outside the state. 63 Secondly, the government maintained that professional colleges are necessary to resolve unemployment. The policy was also justified on the ground of social justice because reservation of 50% of seats in self-financing colleges under government quota would help the poor students to get professional education at reasonable fees. 64 A section of the vernacular press and a great majority of the middle class welcomed the liberalization drive of the UDF. Ironically, little concerns were raised about the allocation of colleges to those private groups and individuals having no previous experience and social commitment. 65 As a result, the policy of the UDF only helped to commercialize professional education turning it into a profit-based industry. The policy became
counterproductive to social justice as the private management did not keep their promise to maintain 50% seats in the government quota. 66

The policy of UDF government vis-à-vis the liberalization of professional education is criticized on account of many reasons. The policy was initiated by the executive without adequately discussing it both among the party circles and in the legislature. It is to be mentioned that even if it were discussed within the UDF there would be no critical objection to the policy from the coalition partners. Ironically, the government gave NOC to all the proposals for self-financing colleges in the absence of any effective legislation or rules. 67 It was said that the private managements before obtaining the NOC had committed to the government for reserving 50% of seats as government seats. 68 However, nothing of this had gone into records and the so called ‘Memorandum of Understandings’ between the government and managements were lacking in statutory status. These ‘MoUs’, which best resembled a ‘trust package’ became toothless once the managements started to violate it. Therefore, when the managements after obtaining the NOC violated the MoU the government was totally rendered helpless. 69 Critics of UDF argue that the sequence of events reveals the hidden understanding between the political leadership of the UDF and the powerful lobbies in the education sector. 70 They contend that the law passed by the UDF also became ineffective in the case of the education institutions started before this legislation. The Act of 2004 was questioned in the court of law and the court endorsed the view that the law cannot be implemented with retrospective effect.

The UDF government’s commitment to regulate private managements is dubious on account of convinced reasons. Firstly, the Congress and its allies have always taken the same view of the private managements in most of the cases in the past. The only exception to this pro-management view of the Congress was during 1970s while the Youth Congress and the Kerala Students Union led strong agitations against private managements across the state. Even then, it is to be mentioned that an influential section of the leadership of the party organization was in complete support of the managements. Secondly, the UDF government was determined to pursue neo-liberal policies in the sectors of the economy, governance, finance, development and welfare. Therefore, it is very difficult to
believe that the government which is determined to realize privatization would discourage the entrepreneurs by imposing regulations.\textsuperscript{71}

Thirdly, many responsible ministers including the Education Minister of the UDF on several occasions justified the private managements’ demand for raising fees including in the government seats despite the act passed by the government had strong provisions against indiscriminate hike in fees.\textsuperscript{72} It is also worth noting that the assurances given by the Education Minister to regulate private managements to the agitating student organizations were violated by the former before the ink on the paper dried up.\textsuperscript{73} Finally, passing of the regulation act, after the issue had completely gone out of the hands of government, also reveals either the callousness of the government or the hidden understanding between the UDF and the private managements.

Graver still is the fact that the government of UDF did not take any precaution to prevent it from the judicial onslaught even though it was foreseeable that such an eventuality was the most likely. It could have strongly appealed to the central government to bring a law at the national level to regulate self-financing colleges. But nothing happened during the last seven years of the Congress rule in Delhi. Critics point out that the UDF government of Kerala exerted no pressure on the Congress government at the centre to put the Act under the 9\textsuperscript{th} Schedule which would have protected it from judicial intervention.\textsuperscript{74}

**The Left Democratic Front**

While the concerns of students in general, and poor students in particular, were brought to the centre stage of debates by Left political parties (CPI and CPIM) and their student’s organizations (SFI and AISF), the Congress and its allies, for instance, Muslim League, Kerala Congress etc. are adopting a wavering stance vis-à-vis the defiant private managements, and they are eager to protect the interest of the poor on several instances. However, the division between these two political groupings is diminishing day by day with the Left abandoning their staunch opposition to self-financing education and the UDF slowly paying heed to the mounting pressure from the student organizations as well as the progressive sections of the civil society to implement provisions of social control.\textsuperscript{75} This indirectly shows that while the self-financing education has been recognized by the Left as a reality, equally important is the fact that their demand for social control is gaining currency across the political parties of the right wing.
Political parties’ strategic linkage with the communal pressure groups is a critical reason for their inefficacy to control the private managements in Kerala. While the right wing political parties’ support to them is explicitly clear, the Left parties also yield to the private managements. It is to be remembered that the LDF government of 1996-2001 faced criticism due to its indiscriminate allocation of Plus Two schools to the private managements. Actually, the same government also showed inordinate interest to give NOCs to start self-financing colleges. But a close review of the policies of the LDF and UDF reveals that there are subtle differences in their approach to self-financing education. Firstly, LDF is more interested to permit self-financing institutions within the public and cooperative sectors. Accordingly, the LDF government (1996-2001) allowed the IHRD, KSRTC, LBS and the state universities to establish self-financing colleges. Secondly, they have a groundswell of opinion about the necessity of social control in the self-financing education. Communal appeasement policy of the successive Left Democratic Front and United democratic Front governments has only served to strengthen communal forces. When it comes to general administration, there is hardly any difference between the LDF and the UDF rule. The education sector has caved into the self-financing system, which pushed the education sector into crisis. The below figure is based on the opinion of politicians about the dominance of dominant caste and communal groups in higher education in Kerala.

**Figure 3.3**

**Dominance of Caste/Communal Groups in Higher education in Kerala**

![Bar chart showing dominance of caste/communal groups](chart.png)

**Source:** The Survey, 2007-2008
During the survey with politicians, 75% of the respondents admitted that good number of self-financing colleges are controlled by the dominant caste and communal groups in Kerala. 15% of the respondents remarked that good number of self-financing colleges are controlled by the dominant caste or communal groups to some extent. From the above figure we can see that majority of the politicians strongly favoured the dominant caste and communal groups in Kerala. The peculiar history of Kerala society led to the emergence of such caste /communal groups. The increasing influence of caste and communal organizations reflects the constraints of a strong civil society.

Moreover, the left parties, which have been arguing against the privatization and commercialization of education in the earlier phase of the 1990s have now recognized that the self-financing institutions are necessary for the development of higher education sector. Ironically, the left’s conditional approval of self-financing education is well manipulated by the right wing political parties and the right wing media. It is a part of the large propaganda of the vested interests aiming at creating public opinion in favour of the self-financing professional colleges in private sector. The supporters widely spread ideas that privatization is inevitable for the development of higher education sector. But, a critical review reveals that the surge in self-financing education only resulted in quantitative growth, i.e. the increase in the number of institutions and seats. On the flip side, quality wise there is no evidence to show that it improved the standard of higher education. Interestingly, it brings about serious issues, for instance, the preference to money over merit which contradicts the idea that privatization enhances quality. In addition to this, from the vantage point of social justice the self-financing system abjectly denies right to education of the poor students. The opinion of politicians about educational lobbies in Kerala are shown in the following figure.
During the survey with politicians, out of total respondents, 25% supported educational lobbys in Kerala. whereas, 35% partially supported educational lobbys. At the same time 40% did not support the educational lobbys in Kerala. The major consensus on the inevitability of self-financing sector is that it can check the outflow of funds to other states.

Kerala is known for active student politics. In fact, student organization energizes the political life of the state. Most of the student organizations have affiliation with political parties. The major student’s organizations in Kerala are SFI, KSU, AISF, ABVP and MSF. Therefore, liberalization of professional education creates ripples in the campuses. Left students’ organizations, especially SFI, were on the forefront of these protests. Their agitation stirred the state politics as they clashed with the police on many occasions. The issue was highly politicized when the CPI (M) declared that it would take over the agitation. The figure below shows the opinion of students union about self-financing professional education institutions in Kerala.
The empirical survey shows that out of the total student’s union respondents, 40% admits that self-financing institutions are business enterprises. 10% of respondents suggested the closure of all self-financing colleges. 20% opined that Self-financing education sector is a highly commercialized sector. However another10% responded that Self-financing education creates new opportunities. Yet another 10% remarked that since the government has limited resource to finance professional education, self-financing education is unavoidable. Thus we can see from the above diagram that majority of respondents expressed more critical opinion about self-financing education.

Ironically, the party CPI (M) was not able to maintain consistency of opinion about the desirability of self-financing education when it came to power. Accordingly, its student wing, SFI, also shifted the focus of their protest. They acknowledge the fact that self-financing education is a reality of the time and what is desirable is social control. This change in attitude reflected in their recent struggles. When the UDF came to power in 2001 the SFI and AISF continued their agitation to ensure free seats, merit based admission and reasonable fees in self-financing professional education. But even those legitimate demands of the
student organizations were not recognized by the UDF since the latter was opposed to popular agitations in general and student movements in particular. Consequent to this, the students’ unleashed violence and the property of private managements were destroyed. The managements approached the court for police protection.

The Kerala government’s policy regarding self-financing colleges has become a headache for the ruling LDF alliance after the major setback in the 2009 Lok Sabha elections. According to a critic, the Kerala Professional Colleges (Institutions) Act should be cancelled. The Act is totally against minorities and the backward classes. The LDF and its student organizations are cheating the students of Kerala. Earlier these very parties fought in the streets against self-financing colleges. Now they are supporting and helping the management. Through the Act, the government increased fees to a very high rate. Then it disrupted the very idea of allotting 50% merit seats (in the professional colleges) on government fees.

The spectacular victory of the LDF in 2006 assembly election raised fresh hopes that the new government would bring laws to control the private managements as promised in their manifesto. Accordingly, the government kept its word which was able to introduce a regulation act and got it passed with the unanimous support of the house. But the new legislation evoked a legal battle between the government and the private managements. Following this, the High Court struck down many vital provisions of the Act rendering it toothless. This sequence of events during 2006-2009 forced the LDF and the CPI (M) to initiate congenial dialogues with the managements.

In short, the left political parties in Kerala have been changing their attitude towards self-financing colleges with the changing nature of politics and the new policy frame works. It is true that the Left front governments are working under severe practical constraints as the neo-liberal policies have strong bearings on government programmes and policies. According to G.P.C. Nair, Both the LDF and the UDF accepted the reality of self-financing sector. Both agree that it is good for state and people. There are also other important reasons behind the changing attitude of the Left towards self-financing education.
Firstly, radical political parties find it very difficult to work in a liberal democracy ruled by the liberal constitution. Secondly, they have to dilute radicalism due to the compulsions of electoral politics. In Kerala, the minority communities constitute around 45% of population and no political party can neglect their interests. While framing the education policies naturally the Left parties also face this dilemma. Even though only the minority communities enjoy the right to conduct education institutions as constitutional right, other caste groupings can also bargain for autonomy in the education sector since they enjoy similar clout vis-à-vis the political parties. Obviously, it leads to greater patronage of government to all the communal lobbies in education.

Thirdly, in the Indian federal system the state governments alone cannot bring about radical changes through public policies. The Constitution of India ensures this under Article 256 and 257, which states that if a state legislature passes a bill contradictory to the provisions of existing central laws, that law will automatically become invalid. Therefore, the central government gets upper hand which is crucial to frame the broad policy vis-à-vis education at the national level. It is also to be noted that the central government controls the resource transfer to the states. Besides this, the state level education policies largely follow the directives of national authorities like UGC which have also been considered as a constraint to formulate independent policies at the state level. As the influence of neo-liberalism holds strong legitimacy vis-à-vis these bodies they generally give consent to the private participation in higher education.

Fourthly, the minority rights to education complicate the situation, as the state governments have no power to amend the constitutional provisions. In the case of Kerala this is more so since a great majority of private education institutions enjoy minority status. This proves that while the attempts of the Left government to democratize higher education confront with two major exogenous obstacles – dictates from the national bodies to follow the neo-liberal principles and the constitutional provisions regarding education rights of the minorities, the endogenous factors, for instance, the demographic composition, caste and communal pressure politics etc., also saddle the Left to a great extent. Consequent to this, legislations to regulate self-financing education institutions seldom bring
about any positive result. Crowning all these, negative verdicts of the court of law also prevent progressive legislation.90

Church Versus the Left Democratic Front

The battle between the Left Front and the church dates back to the first Communist Government in the State in 1957. Kerala had a large number of schools and colleges run by the church. As they were the only educational institution available in many remote areas the government before and after independence used to give working aid to the schools and Colleges.91 Many other caste and religious organizations like the Nair Service Society and SNDP also were running such aided institutions. Even though a big part of funding including the salary of the teachers were from the tax payers money, the Government never had any control over the administration. Huge amount was taken as bribe by the management for appointing teachers.

The Communist Government with the learned Professor Joseph Mundasserry as the Education Minister tried to get some government control over the appointment of teachers in aided schools. The infamous Vimochana Samaram ["liberation struggle"] organized by the Church and Nair Service Society and supported by the Congress and Muslim League in 1959 was mainly against this step by the EMS Ministry. Citing poor law and order situation, the centre dismissed the communist government. This was the first time the Article 356 of the Constitution was used to dismiss a non Congress government. Since then no Left Front government was brave enough to touch the issue. Since then all communal organizations belonging to all religions were together in siphoning off tax payers money. No real protest was raised.

The 2006 Left Democratic Front government with a record majority in the Assembly again tried to put these institutions under some government control. The Government was also trying to get some public control in to the money-making self-financing college industry. This was opposed strongly by the church and other communal organizations. The allegation of 'persecution' of the current church leaders is because of their fear of huge economic loss if the government had some say in the administration of such institutions.92 The Christian run educational agencies derived additional benefits in starting now professional
colleges in the previous UDF government but found itself locked up with the LDF government. Eventually this led to a war of statements between various christen groups on the one side and M.A. Baby, the Minister for Education on the other side. In all the three years, the controversy thrived and no rational policy was in sight. The problem led to polarization pushing most of the Christian church groups to issue *pastoral letters* to defeat the LDF.\(^9\)

**Church, Left and the Recent Election Results (2009-2010)**

The fury of various church denominations over reforms in the education sector has cost the LDF dearly, if 2009 Lok Sabha election and 2010 Panchayat election results are taken as an indicator. The landslide victory of the UDF in 2009 by winning 16 out of 20 seats was a remarkable achievements for the congress and her allies. One of the most important reasons for the setback of LDF was the problem related to the government policy on self-financing of the education sector. The LDF, which won 18 out of 20 seats in 2004, was reduced to just four seats. As per statistics, there was a strong consolidation of christian votes in favour of the UDF in majority of the constituencies in central and south Kerala. The huge victory margins achieved by the Congress in some constituencies illustrates this point. The victory margin at Pathanamthitta where Congress candidate Anto Antony in 2009 Lok Sabha election emerged successful is a thumping 1,11,206 votes. Incidentally, Pushpagiri Institute of Medical Sciences, Thiruvalla, which had faced the maximum ire from the CPI (M) came under this constituency. Kerala Congress (M) candidate Jose K Mani was victorious in Kottayam constituency where Catholic and Orthodox Church have considerable influence. The victory of the Congress party was spectacular in Wayanad, Thrissur, Chalakkudy, Ernakulam, Iddukki, Alappuzha, Mavelikkara and Kollam-all CPM constituencies previously.\(^9\) The tempo of anti CPI (M) approach was sustained by the church to inflict another electoral defeat in the panchayat elections. The UDF gained significantly among Christians in 2009 (68.2) comparison to 2004; while the LDF lost substantially among Nairs as well as Christians.\(^9\) The LDF and the church had clashed with each other over various issues relating to the education sector, the issues began with then Education Minister M A Baby bringing legislation to control the self-financing professional colleges in 2006. Later, the legislation was placed in the cold storage following an adverse Supreme Court verdict.\(^9\)
To bring the estranged Christian vote bank to its side, the CPI (M) secretariat, in a release, admitted that the party was ready for an open debate with the church. The party, the LDF and the Government were eager to settle outstanding issues in the education sector. The bone of contention between the CPI (M) and the churches had been that the government would not allow church-run self-financing professional colleges to fix the fee and management quota at their will. The church, which has a major stake in Kerala’s education sector, wanted a free hand in both areas and interpreted the government intervention as meddling in minority rights. After the defeat of the Lok Sabha election, the LDF government changed their stand in favour of the self-financing management for capturing power in 2011 assembly election.

**State Legislation vis-à-vis Self-financing Education**

Consequent to the violation of the condition – reservation of 50% seats as government quota – in the aftermath of the T M A Pai Foundation case verdict put the UDF government in severe confusion. The government introduced “The Kerala Self-financing Professional Colleges (prohibition of capitation fees and procedure for admission and fixation of fees) Act, 2004. This is the first law brought by the Kerala government to control and regulate the self-financing professional colleges in the state. The managements challenged this law in court and finally they obtained favorable verdict. It was rightly found that the law had no statutory relevance since the Supreme Court had explicitly opined in the T M A Pai case in favour of the private managements.

The second law passed by the Kerala Legislative Assembly by the LDF in July 2006 is known as ‘The Kerala Professional Colleges or Institutions (Prohibition of Capitation Fee, Regulation of Admission, Fixation of Non-Exploitative Fee and Other Measures to Ensure Equity and Excellence in Professional Education) Act. Interestingly, the law was passed by the unanimous support of the house. It indicates that, both the left and right political parties arrived at a consensus about the political control of the self-financing institutions. There was also the public opinion in favour of the legislation which forced the UDF to support it. The different sections of the Kerala society supported the new bill, except some caste-communal groups.

Naturally, the managements didn’t accept this bill and they dragged the issue in to the court in the name of constitutional validity and minority rights. The
history repeated and the court declared vital provisions of the bill as against constitutional provisions and minority rights. In fact, the managements obtained a more favourable verdict ever than before, which made them more powerful in the matter of admission and fixation of fees. Obviously, the verdict rendered the government defensive. After the failure of this legislation, the self-financing college problem became more complicated and legal disputes continued.

The Kerala Professional Colleges or Institutions Act 2006 is an Act to ensure social equity, values and justice in self-financing professional colleges. In simply terms, it was trying to impose a socio-political control over self-financing professional colleges to improve the quality of education and ensure social justice. The important provisions in this Act are prohibition of capitation fee, regulation of admission, fixation of non-exploitative fee and other measures to ensure equity and excellence in professional education sector.99

The first important feature of the Act is the provision of single window system for the admission procedure, i.e. common entrance examination and centralized allotment process to ensure merit based admission and to prevent the malpractices. Secondly, the Act envisaged reservation for not only the SC/ST students but also for other weaker sections in the society including the economically backward students of upper castes. The reservation category according to this Act was SC/ST – 10%, OBC – 25%, PH – 3%, socially forward and economically backward – 12%, NRI – 15%, management – 15%, sports and culture – 2% and remained 18% for general merit.100 The Act also suggested for the organization of an ‘Admission Supervisory Committee’ to monitor the admission procedure, under the chairpersonship of a retired judge in Supreme Court or High Court.101 This committee had equal power to that of a civil court.102

The Bill contained another provision to organize a committee for the fixation of fee in self-financing professional colleges, under the chairmanship of a retired Supreme Court or High Court judge.103 The bill strictly prohibited receiving fee of more than one year. If anybody receive the fee of more than one year, that should be considered as capitation fee. The Act removed the ambiguity regarding capitation fee by defining the amount collected from the students exceeding the total amount of fee for one year. If any self-financing college violates provisions of the bill and it find clearly, then the punishment is up to 50 lakhs rupees fine and one to three year imprisonment. The money collected through the fine would be invested in the ‘Higher Education Scholarship Fund’ to be given to the students who got admission on the basis of merit and coming
under the category of socio-economic backwardness. Though the UDF and LDF are seemed to be committed to the cause of state control in self-financing education, a detailed study of their legislations shows differences between these two fronts. A comparison of the two legislations is provided in the following table.

Table 3. 2
Legislations of UDF and LDF Governments: A Comparison

<table>
<thead>
<tr>
<th>Comparing Factor</th>
<th>UDF’s Legislation in 2004-05</th>
<th>LDF’s Legislation in 2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fees</td>
<td>No Capitation Fees Government Fees in Government seat and in Management Seat, Fees as they like</td>
<td>The Committee to be appointed by the Government will decide the Fees in whole seat; with in this in reservation seat fees concession/government fees, high level fees in NRI/management seat, KT Thomas Commission fees in general merit seat. Don’t receive advance more than one year fees, The fees will re allot in every 3 year.</td>
</tr>
<tr>
<td>Reservation#</td>
<td>No Provision</td>
<td>SC/ST – 10%, Socially and Educationally Backward – 25%, Arts/…. – 2%, PH – 3%, Other than above mentioned – 12%*</td>
</tr>
<tr>
<td>Punitive measures</td>
<td>Fine up to 5 lakh and Withdrawal of institutions’ recognition</td>
<td>Three kind of Punishments: 1. Violation of law relating to admission: Fine up to 10 lakh rupees and withdrawal of recognition 2. Common violation of law: 1 – 3 year imprisonment and fine up to 50 lakh rupees 3. Bureaucrats: the bureaucrat, who is making corruption in giving income certificate and the student, who is taken admission through this will get same punishment as above.</td>
</tr>
</tbody>
</table>

# Not Applicable in the case of minority institutions.
* In accordance with the consent of managements because of no constitutional validity
**Private Managements and their Rights**

Using a fundamental rights discourse, it is well settled that private managements have the right to establish and manage educational institutions under Article 19 (1) (g) of the Indian Constitution, as they are necessarily carrying on an occupation of their choice. In the case of minority institutions, Article 30(1) guarantees religious and linguistic minorities the right to establish and administer educational institutions of their choice. The right to establish and administer educational institutions whether under Articles 19(1)(g) or 30(1) broadly comprises of the right to admit students, to set up a reasonable fee structure, constitute a governing body, appoint well-qualified faculty, and take disciplinary action in cases of dereliction of duty. As far as permissible restrictions are concerned, Article 19(6) allows the State to impose reasonable restrictions on the right guaranteed by Article 19(1)(g) in the interests of the general public. Article 30(1) on the other hand looks at first sight to be an absolute right, a matter of very important consequence for the minority institutions. The opinion of students unions about self-financing management are shown in the following figure.

**Figure 3.6**

**Opinion about Self-financing Management**

![Bar Chart]

Among the total respondents, 50% admits that self-financing managements are business enterprises, whereas 20% remarked that self-financing management undemocratic and unethical institutions. 20% of the respondents opined that self-financing management are anti social institution, while another 10% opined that self-financing managements are capitalists. It is very clear from the above figure that majority of the students union felt that self-financing management are mere a commercial enterprise.

**The Doctrine of Proportionality and the Reasonableness of Restrictions**

The concept of reasonableness plays an important role while gauging the permissibility of the restrictions on Article 19(1)(g). In *State of Madras v. V.G. Row*, it was held that various factors such as the nature of the right alleged to have been infringed, the underlying purpose of the restriction, the extent and urgency of the evil sought to be remedied, the disproportion of the restriction, and the prevailing conditions at the time of imposition of the restriction, would all be relevant in determining the reasonableness of the restriction. Though the restriction in this case related to Article 19(2), the same principle was held applicable to Article 19(6) in *Collector of Customs, Madras v. Nathella Sampathu Chetty*. Unfortunately, in the Indian scenario, this has not been followed many a times. A good example is the price-fixation regime in socialist India and the judicial attitude of deference to the legislative and executive policy in this regard. This attitude has in fact been criticised as showing complete disregard to the judicial evaluative process as laid down in *V.G. Row and Chintaman Rao v. State of Madhya Pradesh*. At a conceptual level, however, this principle of reasonableness assumes greater significance as a manifestation of the doctrine of proportionality in the Indian constitutional context. In *Om Kumar v. Union of India*, the Supreme Court held that the principle of proportionality was applied vigorously to State action in India ever since 1950, in the case of legislation relating to restrictions on fundamental freedoms. The principle expounded in *V.G. Row* was heavily relied upon to derive this conclusion. It was also conclusively pronounced that except in situations of challenge to legislative or administrative action on the ground of the ‘arbitrariness doctrine’ in Article 14, all State action
having a restrictive effect on fundamental rights would be tested on the anvil of
the doctrine of proportionality.

It is therefore imperative to understand the proportionality doctrine and its
implication on the restrictions that may be imposed on the rights of both minority
and non-minority private educational institutions. The doctrine of proportionality
essentially involves a balancing of competing interests to ensure a proportionality
of ends, as well as securing the proportionality of means by permitting only the
least restrictive choice of measures by the legislature or the administrator for
achieving the object of the legislation or the purpose of the administrative
order. Essentially, there are three important criteria used while applying the
doctrine of proportionality. The necessity criterion prevents the State from taking
any action that goes beyond what is necessary to achieve its aims, i.e. the method
least burdensome to the affected persons. The suitability criterion insists that the
means chosen be suitable for achieving those aims. As per the balancing criterion,
the State must have balanced proportionately the burdens imposed on affected
persons against the importance of the purposes sought to be achieved. In
determining the reasonableness of any restriction using proportionality, the
legislative objective should be sufficiently important to justify such a restriction,
the measures designed to meet the legislative objective should be rationally
connected to it, and the means used to impair the right or freedom should be no
more than is necessary to accomplish the objective. These principles go to show
that the nature of the competing interests play a significant role in ascertaining the
limit on constitutionally permissible restrictions.

Misuse of Minority Rights

Protection of the reasonable rights of minorities is the duty of a civilized
society and it is essential for the working of a democratic system. On the basis of
this idea, the Constitution of India provides some special rights – cultural and
educational rights – to the minorities. Article 29 and 30 of the Indian Constitution
deal with this right and it was realized after a lot of discussions and debates in the
Constituent Assembly. Article 29 is related to the right to protect the language,
script and culture, and Article 30 ensures the right to establish and own the
educational institutions.
In course of time, Article 30 has been misused to protect the personal interest of a few and to escape from socio-political control in the case of self-financing issue in Kerala. The professional colleges Acts of 2004 and 2006 are trying to establish a socio-political control over self-financing colleges. The judiciary found that these acts were violating minority rights. Paradoxically, this right is used to protect the interest of a few richer sections within the minority community. This badly affects not only the majority people but a great majority of poor with in the minority community also. It has become a very sensitive issue. In the case of educational institutions, especially in the case of professional education, above 70% is under the control of the two minority communities. In fact, minority rights are of crucial importance in debating the autonomy of private managements of self-financing professional colleges in legal battles. According to M.A.Baby, It goes without saying that it is the Left forces, especially the CPI (M), that defend all genuine rights and interests of the minorities. But what happens in educational sector is that in the name of minority institutions, they are doing various other things. They are not necessarily furthering the educational interests of the minority communities. Most of them are accepting capitation fee and are not giving any weightage to minority candidates to absorb in faculty”.

The Christian missionaries were the pioneers of modern education in Travancore. The primary objective of the educational institutions started by the christian missionaries was the religious propagation and charitable establishments even though they didn’t have any commercial purpose. But now the minority management specially Christian managements accept bribe without considering the social values. The religious leaders accept bribe in the name of caste, religion and god. The government should start a public enquiry about the bribery of private managements. In minority run self-financing colleges government control in admission and fees is required. On the contrary the management argues the ruling coalition illegally collecting huge crores of money from private management every year in the name of affiliation and other reasons.

In Kerala the minorities controlled 80% of the educational institutions, most of which were Christian run. It is in this context that we should view social justice and minority rights. In the educational set up where the minority is a majority, is it right to claim 100% seat and too with uniform fees. In Kerala as
the seats in these self-financing colleges are filled up merely on the basis of money donated, these institutions and their managements are becoming the biggest threat and they are negating the constitutional rights of the minorities. A student from an economically backward minority family cannot get admission in a minority institution.

According to S. Anirudhan, in Kerala minority rights are not properly used. Usually minority rights are given to balance the society but now it created a social imbalance. The governments in our state can’t do anything because government depends largely on minority vote bank. Recently Chief Minister Oommen Chandy stated that the government is committed to protecting minority rights, but this should not be denying social justice. The biggest tragedy in professional colleges under the minority run institutions was that students from poor families were being denied admission in the name of minority rights. These managements are doing total injustice to the society.

Trends in Growth of Self-financing Professional Colleges in Kerala

At the beginning of the 20th century, a majority of the schools in Travancore and Cochin were owned and managed by the foreign Missionaries and the indigenous Christian church. These schools were instrumental to start modern education in Kerala. The managements of these schools had given preference to Christian children and employment opportunities in these schools were not open to other castes and communities. Other communities also started thinking of opening schools against this backdrop.

The turn of the 19th century also witnessed a general awakening of the backward and depressed classes which resulted in a scramble for knowledge, power and social status. Leaders of these communities felt that education was the only way for achieving higher social status. Thus began a big race for starting schools and colleges in order to secure education for their children. Therefore, it remains a fact that the private agencies played a major role in Travancore and Cochin in the promotion of education.

A landmark in the history of private educational efforts in the 20th century was the emergence of several community associations like Nair Service Society, Sree Narayana Dharma Paripalana Yogam, Sadhu Jana Paripalana Sangham and Muslim Educational Society. These associations under the reformative leadership
played an important role to start educational institutions and to motivate the parents to send their children to schools. These community associations established many colleges in aided as well as unaided/private sector, including professional colleges. As a result of such efforts of the private agencies, the number of institutions increased several folds in the 20th century. The private sector dominated education in all the three regions of Kerala. In 1995-96, 62% of the total number of schools and 82% of the arts and science colleges in Kerala were owned by the private sector. Kerala is the only state in India in which the management of the majority of the schools remained with the community associations and other private agencies (Table 3.4 and figure 3.7). In contrast at the national level only about 32% of the primary schools are there in the private sector. The below table and map shows trends in growth and concentration of professional colleges in Kerala.

**Table 3.3**

**Growth Trends in Professional Colleges in Kerala**

<table>
<thead>
<tr>
<th>Sl. No</th>
<th>Colleges</th>
<th>Management</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>[Government Colleges]</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>[Year 1990-2000, 2000-2011]</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>[Government controlled Private colleges]</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>[Year 1990-2000, 2000-2011]</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>[Private Colleges]</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>[Year 1990-2000, 2000-2011]</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Arts &amp; Science Colleges</td>
<td>38</td>
<td>2</td>
</tr>
<tr>
<td>2</td>
<td>Engineering Colleges</td>
<td>11</td>
<td>1</td>
</tr>
<tr>
<td>3</td>
<td>Medical Colleges</td>
<td>5</td>
<td>0</td>
</tr>
<tr>
<td>4</td>
<td>Nursing Colleges</td>
<td>5</td>
<td>0</td>
</tr>
<tr>
<td>5</td>
<td>Dental Colleges</td>
<td>3</td>
<td>0</td>
</tr>
<tr>
<td>6</td>
<td>Pharmacy Colleges</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>7</td>
<td>Ayurveda Colleges</td>
<td>3</td>
<td>0</td>
</tr>
<tr>
<td>8</td>
<td>Homeo Colleges</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>9</td>
<td>B-Ed Colleges</td>
<td>4</td>
<td>0</td>
</tr>
</tbody>
</table>

Source: Compiled by the Researcher.
Map 3.1
Concentration of Self-financing colleges in Kerala

Source: Government of Kerala, Prospectus for admission to Professional Degree Courses 2011, Commissioner of Entrance Examination, Trivandrum.
<table>
<thead>
<tr>
<th>Type of management</th>
<th>Engineering Colleges</th>
<th>Medical Colleges</th>
<th>Dental Colleges</th>
<th>Ayurveda Colleges</th>
<th>Nursing Colleges</th>
<th>B-Ed Colleges</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Christians</td>
<td>22</td>
<td>5</td>
<td>6</td>
<td>1</td>
<td>19</td>
<td>40</td>
<td>97</td>
</tr>
<tr>
<td>Muslims</td>
<td>22</td>
<td>6</td>
<td>8</td>
<td>3</td>
<td>15</td>
<td>35</td>
<td>89</td>
</tr>
<tr>
<td>SN</td>
<td>12</td>
<td>3</td>
<td>2</td>
<td>3</td>
<td>12</td>
<td>32</td>
<td></td>
</tr>
<tr>
<td>NSS</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td>2</td>
<td>2</td>
<td>8</td>
</tr>
<tr>
<td>Non Minority (Private Trusts)</td>
<td>22</td>
<td>2</td>
<td>8</td>
<td>5</td>
<td>23</td>
<td>48</td>
<td>108</td>
</tr>
<tr>
<td>Total</td>
<td>80</td>
<td>16</td>
<td>22</td>
<td>13</td>
<td>62</td>
<td>143</td>
<td>336</td>
</tr>
</tbody>
</table>

Source: Compiled by the Researcher.

Figure 3.7
A Profile of Management's Hold over Self-financing Education Sector

Source: Compiled by the Researcher.
Table 3. 4 and figure 3.7 illustrates the proliferation of self-financing education sector in Kerala. Accordingly, the two minority communities, Christians and Muslims, have the large number of professional colleges, in comparison to the Hindu caste associations of Sree Narayana management and Nair Service Society. The general category has a total of 97 institutions and these are belonging to individual management, private trusts and other commercial lobbies. We can see from the table that after 2000 no single professional colleges was started by the government.

The colonial state as well as the princely states gave financial assistance to them. But after 1957, government started to ensure strong control over private managements and directly intervened in their affairs to assure quality, social equity and justice. However, the private managements, especially Christian churches and other community associations, strongly protested against radical reforms in education sector. This resulted in a situation whereby equal participation of public and private agencies in education sector was ensured at least in theory.

However, by late 1990s the government started to accept neo-liberal policies and it has been withdrawing from education sector, especially from higher education. In the first stage the government gave permission (NOC) to start self-financing colleges in the co-operative sector and under the direct control of universities. Due to the increasing pressure from caste-communal groups and the growing necessity of technical education from various sections of the society, the government was compelled to allow more institutions in the self-financing sector. Later different governments also maintained the same policy by giving NOCs to everybody, those who applied for permission, without checking their background of experience, infrastructure facilities, social concerns etc. This was the biggest ever mistake committed by our government. Now the self-financing professional colleges are organized in such a manner that the government is at the mercy of them for admitting students from merit list every year.

Apart from the caste-communal associations, the private individual entrepreneurs also were able to hold sway in this sector and they all made huge investment. All these changed the character of professional education which is
now transformed into a pure business and their prime motivation is to make more profit with out considering social values, equity and justice. A new version of capitalism emerged and it reveals how the state promotes and sustains a new capitalist class arising out of the business of higher education. The modern state not only failed to protect the interest of the poor and weaker sections, but also fulfills the expectations of the upper income groups at the cost of merit and social justice. The business and the political economy of higher education in India sustain these trends in future as well till the state undertakes alternative measures.  

**Summing up**

Though the political interventions in the private sector contributed significantly to the educational development of Kerala, the predominance of private sector has led to several unhealthy developments also. Over a period of time, the role played by the community associations under the church and other religious congregations underwent drastic transformations, i.e., a change from the role of pioneers of social reform to that of powerful pressure groups and profit-seekers. The government also failed to overcome the pressure raised by these influential groups and the professional education became solely under the control of private sector. The neo-liberal setting aided the private sector phenomenally. They are trying to make maximum profit without considering the concerns of social equity. In short, the professional education has become not only a commodity in the market but also the market laws are actually determining its administration. Strangely minority rights also strengthen the self-financing education sector. The profound dilemma of Kerala is very much conspicuous at this stage.

**References**

4. Ibid.
6. Ibid., p.11.
8. Ibid., p.2164.
10. Vijender Sharma, op cit., p.11.
15. Ibid.
17. Ibid., p. 322.
18. Ibid.
19. Ibid., p. 323.
20. Ibid., p. 324.
22. Ibid.
23. Ibid.
24. Ibid., p.59.
25. Ibid.

33. Ibid.

34. N. Ajith Kumar, K. K. George, op cit., p. 59.

35. Ibid., p. 60.

36. India census 2001 shows that Kerala has 56.2%, 24.7%, 19% and 1% Hindus, Muslims, Christians and Jains respectively. For more details see http://www.crusadewatch.org/index.php?option=com_content&task=emailform&id=580&itemid=27, accessed on 22/07/2009, at 5.40 pm.

37. N. Ajith Kumar, K K George, op cit., p.60.

38. Ibid.


41. Ibid.

42. Interview with R.V.G. Menon, former President, Kerala Sastra Sahithya Parishath, on 8 September, 2006.


46. Sujata Patel, op cit., p.2152.


49. Bhupendra Yadav , op cit., p.880.


55. As coalition politics has become the norm of government formation, strong ideological bifurcation is not possible as before. However, it does not mean that ideological difference is completely evaporated. On the contrary, the intention was to point out that political expediency has corrupted the coalition formation in the contemporary times. The presence of non-left parties for instance, NCP and Kerala Congress (Joseph) until recently in the LDF camp is the best example. Dependence of the CPI (M) and CPI on these conservative factions is a reason for softening their radical position over issues like
self-financing education. It is also worth mentioning that during the LDF governance (1996-01) it was the Kerala Congress (Joseph) which controlled the portfolio of education.


57. Pariyaram Medical College was established in March 1993.


63. Interview with P. C. Vishnunath, MLA, on 11 July, 2010.

64. Interview with Aryadan Muhammad MLA on 22 June, 2010.


66. Ibid.

67. Ibid., p. 29.


69. Ibid., p.5.

70. Interview with B.D.Devasy, MLA, on 22 August, 2009.

71. B. V. Pavanan, op cit., p.6.

72. Interview with R.V.G. Menon, former President, Kerala Sastra Sahithya Parishath, on 8 September, 2006.


74. Interview with MA baby, Minister for Education, Government of Kerala, on 23 October, 2009.


79. Interview with V.V. Rajesh, State President, ABVP, on 7 August, 2009.

80. Interview with M.A. Vaheed MLA, on 8 May, 2010.
82. Interview with Kutty Ahammad Kutty MLA, on 11 April, 2010.
83. Ibid.
84. Interview with PK Firose, State President of the Muslim Students Federation, on 15 September, 2009.
85. 2006 *Election Manifesto of LDF: Education*, AKG Study Centre, Trivandrum.
88. Interview with Mahesh Kakkath, AISF State Secretary, on 5 May, 2009.
89. Interview with T.V. Rajesh, SFI State Secretary, on 7 November, 2008.
94. Ibid., p. 239.
95. Ibid., p. 244.
100. Interview with M.A. Baby, Minister for Education, Government of Kerala, on 23 October, 2009.
101. The government organized a committee, under the chairpersonship of retired High Court judge, Justice P A Muhammad and it known as Muhammad Committee
103. Ibid., p. 86.
104. Ibid., pp. 90-91.
The Supreme Court decision in Shree Meenakshi Mills v. Union of India, AIR 1974 SC 366, is a case in point. Here the Supreme Court went to the absurd limit of stating that even if some producers sustained loss for sometime, it would not be enough to brand the price fixation as unreasonable. For more details about this see http://vlex.com/vid/29689637, accessed on 17/09/2010 at 4.30 pm.


Interview with Mohana Chandran, Syndicate Member, University of Kerala on 3 August, 2011.

Interview with Justice. K.T. Thomas, Judge, Supreme Court on 12 September, 2008.

Interview with P. Rajendran, Syndicate Member, University of Kerala on 29July, 31, 2011.

Interview with Santhosh, Pushpagiri Management, on 20 December, 2009.


Interview with S. Anirudhan, Member, P.A. Muhammad Committee, on 29 March, 2011.