RA Feedback received on proposed Admission and Termination Regulations, August 2012

Note: The following is a collection and consolidation of questions and feedback received by the RAS. Two feedbacks and one set of questions were quite detailed and extensive, and we decided to reproduce them in verbatim. They are marked green.

A.) QUESTIONS:

1. These regulations are a statutory requirement of the Act. Can we keep it as simple as possible and work out the details within the community as a set of internal policies that are referred to in the regulations?

2. Can we form a subgroup to consolidate the 2008, 2011 and 2012 proposals, as well as the below feedback received? Can Chali and Divya be invited to these work sessions?

3. Previous versions have been rejected and modified by legal opinion. Can the RA have an insight on why this happened, who were the lawyers involved and whether there is a way to avoid this in future?

4. Chapter V- Miscellaneous of this Notification Draft, point 17. Auroville Admission Policy states: "The Governing Board may make an Auroville Admission Policy, not inconsistent with the Act and the Rules and these Regulations, which details the conditions for admission and affiliation to Auroville". What is the purpose of this point?

5. Set of questions as to purpose and history of the document proposed on AV Net:
Is the risk that if we don't have these guidelines in place, there is a possibility that a less agreeable Governing board configuration will compile one for us? Is this the single reason to organize this or is it also that RA decisions wouldn't hold up in a court at present?

If the risk is that the Governing Board would compile one for us without consulting us, wouldn't it be sufficient for the Governing Board to ratify a simply document declaring that it specifies that the regulations for entry and exit will be determined by the RA in an evolving fashion, in consultation with the Governing Board? Wouldn't that successfully fill the gap in the existing documentation without removing AV's capacity for self-determination? See above, question 1.)

By putting forward the draft proposed on AV Net recently, or specifying any particular format as a regulation under the Foundation Act, it means we, by law, have to have an Entry service and a Review committee - there is no freedom to decide that we don't want to organize the entry to or exit from Auroville in a different manner. Seemingly, below excerpts (Feedback 13) are the portions of the Foundation act which are being referred to as 'making necessary' this new 'Entry and Exit policy'. It specifically states that the RA has the power to (section 19, 2a) 'allow the admission or cause the termination of persons in the register of residents...’ It has been stated, as the purpose behind this new policy, that the RA has no legal standing in its decisions because the Governing board has not specified any specific regulations for 'admission or termination of persons in the register of residents'. The argument is that when the RA makes a decision to terminate someone from the register of residents, it's decision is not legally binding and would be overturned if presented before an Indian court of law.

The first question for a lawyer (ideally several lawyers) would be, in review of the Foundation Act, whether that is the case or whether, in the absence of specific Governing board regulations, the stated subsection of the law (section 19, 2a) would indicate that the RA is, in fact, legally entitled, FOR ANY REASON IT DETERMINES, to "cause the entry or exit of persons from the register of residents".
• And if it is entitled to cause the entry or exit, but not 'for any reason', then under the existing phrasing, what criteria would be 'legally eligible' as cause for exit? Assumedly, contravention of existing India law would meet those criteria in a court of law, at the very least. A second question for a lawyer(s)?

• And if the RA is not entitled to cause the entry or exit... isn't that whole part of the Foundation Act pointless?

• Also, as an observation, there is no mention in the Foundation Act or related rules and regulations of any form (the equivalent of a Form B) related to removal of a name from the register of residents, or to the Secretary's role in removing a name from the register in any way, other than by stating that it is his responsibility to 'maintain the register of residents'.

• If the vague nature of the regulations opens the entry and exit decisions the RA makes (has made) to legal vulnerabilities, wouldn't the same vulnerability apply to assets, such as land and buildings, which the Governing Board / RA "may" acquire if "necessary and convenient for the purposes of the foundation" (Auroville Foundation Act, rules and regulations)? - in this scenario, would the ambiguity of the act open Auroville to legal action for acquiring land without being able to prove that it was necessary and convenient because it has no policy specifically stating what land is necessary and convenient?

• Or: Auroville Foundation Act, rules and regulations, Section 5, 3: "The Residents’ Assembly shall determine the composition and functions of every Committee constituted by it."

• And would a member of Auroville who felt aggrieved at not being selected by a 'selection committee' then be capable of having an Indian court overturn the selection committee's decision based on the fact that the regulations by which the RA made their decision to appoint one person or another are not elaborated and specified in a regulation document?

B.) FEEDBACK ON CONTENT
1. A person can come before the Review committee and possibly be taken off the Master List if he/she is referred by an official working group or ten Aurovilians. This threshold is too low and risks opening up this process to abuse by all kinds of personal vendettas and lobbying. If nothing else, this will add greatly to the workload of the Review Committee and is sure to lead to a general kind of poisoning of the atmosphere in Auroville where all kinds of petty issues and conflicts get escalated into potential "Exits." Exit is a pretty drastic step and even the decision to consider someone's exit should only be taken in the most serious situation. The threshold to refer someone for a Review Committee should be much higher--at least 50 Aurovilians and possibly even more.

2. These kinds of decisions should be made - in the absence of an enlightened, gnostic council of wise beings - by nobody else but the Resident's Assembly as a whole, not just one group or another, or a small collection of people, in a total and transparent understanding of the situation, without judging, but getting to the Truth and allowing that to Guide us in our decisions.

3. Is a mob of 60 persons more acceptable than a mob of 10? We can’t reduce the problem to one of how many people request the exit of a person. By bringing these sorts of numbers into the process we are setting a low benchmark for something which has more to do with consciousness than how many think a certain way.

4. This process would ideally be a two stage process: a group of 60 Aurovilians has to refer a person to the WC or AVC (or both), who then both have to approve the referral before forwarding it to the Review Committee, which would function as a kind of forum of final appeal.
5. It is not the numbers that matter but the quality of the feedbacks. One can have 60 or more signature, but the reason to refer someone to a Review committee should be valid above suspicions.

6. For residents with foreign passports the visa is used to pressure while Indian nationals can do whatever they like: work outside, not be in AV for most of the year etc. This is an inequality that also needs to be addressed. Visa should not be used to get people off the master list but rather a process rectified by our community and equally implemented to all residents.

7. Why is not more than one working group required to make a complaint? Some thought must be applied on this as well. The situation is already quite unbalanced between the working groups and the residents.

8. We need to define a specified list of actions that can/must lead to setting up a Review Committee; otherwise this process will be ruled by lobbies and exceptions and will be useless.

9. One would have hoped that a simple statement from us such as; the Working Committee in consultation with the Residents’ Assembly shall recommend a candidate to be admitted into Auroville and under extraordinary circumstance; that the Working Committee can withdraw this recommendation, would suffice. How the Working Committee comes to this decision is well defined in our Entry Process Policy and as it is an internal Auroville process. We do already have an admission policy called Draft 7. New Aurovilians go through a screening process made up largely of the community and sign a document called material conditions that can be used to monitor.

10. Regarding 11.3 (If a resident leaves Auroville at his or her own initiative, the Funds and Assets Management Committee may in exceptional cases of dire need grant a Leave Auroville allowance in order to enable the resident to
settle elsewhere, taking into account the period of residence and the resident’s past commitment and contribution to Auroville.): Although par.11 is called "Removal of Names from the Register of Residents" this article mentions "Leave". Leaving Auroville is not specified as being removed from the register. Is that meant to be that way? Should one be removed from the register in case a grant is given? Should the whole or part of the allowance be paid back if the person decides to come back? Can the person come back without entry procedure? Is the return-procedure and removal of the register to be specified by the FAMC when the grant is given? The concept of this Leave Allowance makes sense, but it looks like 11.3 is a last-minute addition and is in need of a good description.

11. Being a member of a Review Committee is a heavy responsibility. The risk here is that not many people would like to carry such a mandate for three years. We could rather constitute ad hoc Review Committees from a community approved list of people who are known for their capacity or at least their intention to be fair and impartial.

12. In general we should question the wisdom of any kind of review process. It is nearly always divisive, and leaves some people feeling that justice has not been served. What about an open meeting or meetings where everyone who feels concerned, including the person whose status is being put into question, along with his/her supporters, any aggrieved parties and the involved working groups meet and listen to each other in order to understand the issue from all angles. Such meeting(s) would last for as long as it takes for all parties to understand each other and for each to accept his/her share of the responsibility for whatever has happened. In some cases this could mean working groups taking a share of the responsibility if they had done anything, even unwittingly to aggravate the situation. Then all parties must agree on what to do next. It could be a series of steps leading to rehabilitation or correcting misunderstanding. Then there would be follow up meeting(s) to evaluate the outcome, and perhaps outlining further steps. If at the end of this process most people think the person needs to leave Auroville either for a while or permanently and the person him/herself disagrees, s/he could be put on a period of probation. If after a period of probation, things are no better, then the person must be told to leave Auroville either for a particular time or permanently. Cases where someone has to be forced to leave against his or
her will should be very rare, and only after an open, transparent and inclusive process.

13. Proposed regulation:

In exercise of powers conferred by section 32, sub-section (2)(h) of the Auroville Foundation Act, 1988 (54 of 1988), the Central government hereby makes the following rules, namely:

1. Entry and Exit Regulations

(1) The Residents' Assembly shall:

a. under the terms of sub-section (2) of section 19 and in accordance with the ideals of Auroville, allow the admission of or cause the termination of persons in the register of residents.

b. ensure that, upon admission of a resident, the relevant application in Form B is submitted to the Secretary, for the resident to be added to the Register of residents.

c. maintain all records of entry and exit, including a copy of the Form B for each resident.

d. ensure that, upon termination of a resident, the relevant Form B details along with a letter from the Residents' Assembly is submitted to the Secretary, requesting the removal of the resident from the Register of residents.

(2) The Secretary shall, pursuant to the provisions of sub-section (2) of section 18 of the Auroville Foundation Act:

(a) register the name of a new resident in the register of residents upon receipt of an application in Form B, in accordance with section 9 of the Auroville Foundation Act Rules and Regulations 1997.

(b) remove the name of an existing resident from the register of residents upon receipt of a copy of the resident's original Form B
application and a letter from the Residents' Assembly requesting the removal of the resident from the Register of residents.

Below this are excerpts from the Foundation Act relevant to this topic, as reference, but also useful while considering the issue.

Excerpts from the Foundation Act:

19. (1) The Residents' Assembly shall perform such functions as are required by this Act and shall advise the Governing Board in respect of all activities relating to the residents of Auroville;

(2) In particular, and without prejudice to the foregoing powers, the Residents' Assembly may-

(a) Allow the admission or cause the termination of persons in the register of residents in accordance with the regulations made under section 32;

Section 32.

(1) The Governing Board may make regulations, not inconsistent with this Act and the rules made thereunder, for enabling it to discharge its functions under this Act.
(2) Without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:-

(h) admission or termination of persons in the register of residents.

(3) No regulation made by the Governing Board shall have effect until it has been approved by the Central Government and published in the Official Gazette, and the Central Government, in approving the regulation, may make changes therein which appear to it to be necessary.

Rules and regulations to be laid before Parliament

33. Every rule or regulation made under this Act shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation, or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything

AV Foundation Act Rules and Regulations

9. Registration of Residents:-

(1) A resident of Auroville admitted to Auroville under the terms of sub-section

(2) of section 19 and who is of the age of eighteen years or above as on the date of application may submit an application in Form B appended to these rules to the Secretary for registering his name in the register of residents.
14. We need be careful to not forget or rather accept to replace what for us is the Master List with the Register of Residents and the difference between the Master List and the Register of Residents.

15. These regulations are rather vague in certain areas. The selection process of members of the entry service and of the review committee, the abilities necessary to qualify for membership of the entry service and the review committee are not spelled out clearly. A process of an appeal from decisions of entry service does not exist at all. In the case of an appeal from decisions of the review committee, it is proposed to create another committee called a ‘special committee’ without indicating how that is any different from the review committee itself.

SECTION iii (a): This section states that the entry service members will be appointed directly by the Resident Assembly or by a committee constituted by it for this purpose. The provision creates two ways of appointing members and leaves both the ways open and without any specific process on how this should be done. It is important that either both or one of these processes are spelled out in detail so that there is no ambiguity.

The qualifications for the members of the entry service are spelled out in 3(b) and 3(c). These qualifications are. At least 6 members of more than 5 years residence, mix of ages, nationalities, gender balance & communication and organizational skills. Principle qualification for members of the entry service should be long years of work in Auroville with sincerity and devotion to the Auroville ideals. Such persons will have the discrimination to evaluate who is fit to be admitted to Auroville and who is not. Communication and organizational skills should be secondary as they have no direct dealing on the ability to select people to join Auroville. Similarly the question of different ages, nationalities and gender balance to be placed as guidelines which may or may not be achieved.

SECTION 4 (b) At the time of accepting or rejecting application in accordance with the Auroville admission policy, it should be necessary for the entry service to give reasons for their decision.
SECTION 4 (e) Similarly, if the entry service accepts or rejects requests for affiliation to Auroville, it must give valid reasons for their decisions.

While for the review committee, there are sections dealing with constitution of the review committee, mandate of the review committee, powers of the review committee and procedure and process of the review committee in the entry service, there are sections only to constitute of the entry service and the mandate of the entry service. There are no provisions in the entry service relating to its powers or the procedure and process it should follow; it is not clear why these have been omitted.

SECTION 5 (a) States that the members of the review committee should be appointed directly by the Resident Assembly or by the committee constituted by for the purpose.

I find this giving of two options without enumerating the process in either of those options is very vague and likely to lead to misuse and abuse of its provisions. I would like to see a process enumerated in the provision itself how a review committee is constituted in detail.

SECTION 5 (c) ii States that the members of the review committee should be qualified for the work to be done. But fails to state what are the qualities that should qualify them. Here again like for the entry service, the qualities should be mentioned in the regulations itself.

The principle quality would be the continuous and long service of the ideals of Auroville and sincere attempt to follow the path of Sri Aurobindo and Mother.

The other criteria mentioned in section 5 (c)i about different ages, nationalities and gender balance should be treated as guidelines or recommendations, but not as mandatory conditions.
SECTION 5 (d) We are aware how difficult it is to find good people to offer their work in services. In the circumstances that prevail, I would like to propose that a gap for one year re-appointment may be waived in a case where a competent new member is not found. I would also like to suggest that the determination of which 3 members should retire every year may be done by lottery.

SECTION 6 (a) states that the review committee may conduct enquiry based upon the report from the Auroville working group or at least from 10 residents. Another step should be put in this process before the matter is given to the review committee to handle. A report from the work group or 10 residents should be first be looked at jointly by the working committee and the Auroville council and only if they are convinced that a case exists which is worth investigating should they refer the matter to the review committee. In the present situation in Auroville, the working group may be one or two people only or one or two people may have a dominant voice in working group and it would be easy for them to make a complaint in case they have bias against somebody.

Secondly it is also necessary to be specific about the reasons for making a report to the review committee. Presently if the person’s behavior is incompatible with Auroville ideals or laws of India or if the person is not involved in any committed work relevant to the goals of Auroville, these are reasons for going to the review committee against a person. Some of these criteria involve a very subjective decision and could be misused to harass people. Even the criteria of provision of contravention of the laws of India need to be looked at carefully because many Aurovilians are in contravention of some law or other. It is important that we have very objective reasons for making complaint to the review committee. Some reasons that come to mind are: a) if a person has deliberately derived personal benefits from the misuse of Auroville assets put in his or her care.

That the Aurovilian concerned contribute neither money nor work even though he is capable or either or both.
A person concerned is psychologically unstable.

SECTION 7 (b) gives powers to issue a public warning to the review committee. It is not clear how this power is related to the review committee. This should be dropped.

SECTION 7 (c) states powers of the review committee to decide that a resident or affiliate pay a compensation in cash or kind. It is not clear how this power is relevant to the functioning of the review committee. A review Committee is created only to decide whether a person may continue to be in Auroville or not.

In exercising the powers in a) or e) the review committee must give reasons for its decisions. This should be incorporated in the provisions.

SECTION 11 (3) is about residents deciding to leave Auroville by themselves. It has no place in these regulations.

SECTION 14 of the regulations describes the process of creating a special committee to hear an appeal against the decision of the review committee. It is proposed that a special committee would be constituted in meeting of the Resident Assembly. Now we are well aware that in a Resident Assembly meeting usually only 40-50 or at best 70-80 attend. More than half of these are new comers. The people carrying responsibility in Auroville do not appear at these meetings and therefore to make this the forum of deciding the nomination of the special committee is not advisable.

b) The qualifications that are necessary to be a member of the special committee are not spelled out. This needs to be spelled out so that only appropriate persons are chosen.
Members of the special committee should be those who have served Auroville for over 25 years in any responsible capacity and have proven to give themselves to the work of building Auroville.

C.) FEEDBACK ON PROCESS

1. We are not clear from whom they have received this version, but it’s assumed it is the response to the three versions of this proposal submitted by the Working Committee to the Governing Board four years ago. At that time the concern was that the Governing Board, with legal advice would heavily edit whichever of the three proposals they focused on and after re-drafting it, in accordance with the Act, obligingly will ‘consult’ with the Residence Assembly. Drastic changes to our Draft was to be expected but more worrying is that since it is our intention to have these Regulations published in the ‘Gazette’, it will be forwarded next to the Law Ministry who will scrutinize and refine the document to conform to Indian Law; The end result may be quite unrecognizable to us.

2. What is the purpose to present these regulations to the Governing Board, when these have not even been approved by any Residents Assembly? Is it for the GB to approve them? And is it for the GB to present it to the concerned ministry? Remember that we are still badly afflicted by the FAMC regulations that had also been drafted by a few people bypassing the collective process and approved by the GB? If these go to the ministry, they are bound to be modified. And once they are notified, no one, not even the GB can change the modifications that were made by the ministry.

3. In the announcement by the Working Committee it is written that “Feedback received by the Secretary until the 24th August 2012 will be consolidated and placed before the Governing Board for their consideration.” Are all the residents expected to send their feedback to the Secretary directly? If yes, what is the email id to which it has to be sent? foundation@aurovillefoundation.org.in ? Can the WC please clarify? Has the WC any role in this process? Is it a process between the residents and the Secretary? Is it the Secretary of the Foundation or the Secretary of the WC to whom the feedback is to be given? Since WC has chosen not to
have comments to this post, I assume that they are not interested in any public discussion online on this topic. So the posts made in Auronet – is it useful at all?

4. Before we have a real forum accepted by everyone and every group, we cannot accept any decisions making process. If there is no communication, how can there be any decision?

5. It may be useful to remember that the previous WC had, due to pressure from the GB and the Secretary at that time, worked quite extensively on 'Entry/Exit Regulations', in constant collaboration with the previous AV Council and the previous RAS. The draft that came from this collaboration was discussed in detail with Sriram Panchu (Senior High Court lawyer and long-time friend of Auroville), and was discussed in 2 separate General Meetings; after each the feedback given either verbally or sent in writing was incorporated. The resulting draft was accepted, albeit somewhat reluctantly be some, and presented to the GB who then nominated Aster and Ameeta Mehra to go through it in detail with us, which they did; their feedback was also incorporated and the draft that was a result of all of this work and collaboration was finally submitted to the Foundation to be forwarded to the HRD Ministry. The various times we asked for an update on its status we were told, "Yes, yes, it has been sent on and is either with HRD still or has been sent on to the Law Ministry for vetting." Now it seems that was not the case and the whole thing starts again. It may be useful for those who plan to participate in this discussion to compare the two documents, both of which have their merits in my opinion: one example is replacing the list of 'Qualifications for admission' with a signed declaration that includes most of those qualifications that were listed. It's also important to keep in mind that there was a large number of Aurovilians involved in formulating the previous one, which resulted in, for example, a preamble to the 'Exit Process' and an emphasis on creating internal documents and guidelines to address details rather than including them in the Regulations themselves, for the most part.

6. The members of the Residents' Assembly might truly benefit from discussing these important issues. It could be a great tool to unite us all by
working together on this important framework of policies. Another benefit might be that, after such a deep debate about what it is to be a resident of Auroville, we might all feel as if we really own the regulations and stand behind them, together. It is not about contesting the value of all the hard work that has already been put into this, on the contrary. But, isn’t it a just a little bit premature for Auroville to be presenting it to the Secretary (or to the Governing Board)?

7. All very well, but this means more delay for an exit policy. For how many years (decades) has this search been going on? Who profits from more delay?