

BETTER BRICK NEPAL (BBN) STANDARD

VERSION 2 | OCTOBER 2020



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Audience: Public

The official language of this standard and supporting systems is English. In the case of inconsistency between versions, reference shall default to the English version.

Overview

The Better Brick Nepal (BBN) project was initiated in August 2013 to address labour challenges in Nepal's brick industry. BBN seeks to create a market preference for a "better brick" such that buyers of these bricks are assured of more ethical and higher quality production. At the same time, participating kilns benefit from technical assistance and access to new high value markets. The BBN Standard meets the need to address these labour issues in Nepal's brick kilns by setting measurable, verifiable criteria against which a "better brick" can ultimately be certified.

BBN is a collaboration between Global Fairness Initiative (GFI), GoodWeave International (GWI), and several Nepali NGOs. This work is supported by Humanity United, an organization dedicated to building peace and advancing freedom in the world.

The BBN Standard requirements are based on criteria identified by the project partners and critical issues in the brick industry in Nepal, in line with the Nepali law and within the framework of established international norms on child rights and worker's rights, including the UN Convention on the Rights of the Child and the conventions of the International Labour Organization (ILO), even if not ratified by Nepal. Building on GoodWeave's experience developing and implementing standards and on key principles identified by BBN program teams, these criteria have been implemented in partner kilns since 2015.

Application and Review Timeline

This version of the standard was approved by the BBN Standards Committee on September 25, 2020 and is applicable from October 1, 2020. This version supersedes all previous versions.

Scope

The BBN Standard currently addresses child labour, forced and bonded labour, and working conditions (including wages, working hours, health and safety, and disciplinary practices) in Nepal's brick industry. GoodWeave has developed the standard and verification methodology to assess the labour rights and working conditions at participating brick kilns. Guidance has also been developed that describes the requirements in greater detail and offers practical information to assist participating kilns with the implementation of the standard.

The geographic and industry scope of the BBN Standard is intended to be applied only to the brick industry in Nepal.

Objective

The broad aims of the BBN Standard are as follows:

- To reduce forced, bonded and child labour on brick kilns
- To facilitate the development of a market-based model to certify bricks

BBN Standard Organization

The body of this document is organized by five principles as follows:

1. No child labour is allowed
2. No forced or bonded labour is allowed
3. Fair remuneration and working hours
4. Workplace safety and health shall be respected

5. No harsh or inhumane treatment is tolerated

Each of these principles contains a number of minimum requirements and progress criteria. In addition to the five principles above, the standard also recognizes an additional cross-cutting principle of non-discrimination, which is addressed by several of the criteria under various principles.

Classification of Criteria

The criteria have been divided into two parts: minimum requirements and progress criteria.

Minimum requirements define the criteria to which kilns will be held accountable in the first stage of implementing the standard. For example, a minimum criterion of Principle 1 (no child labour) states that “children below the age of 14 are not employed or allowed to work, even when accompanied by family members, in any of the processes part-time or full-time.” The minimum requirements ensure that kiln owners are at least meeting Nepali law.

Progress criteria explain future requirements to which kilns will be held accountable. The reasons for including these requirements in the standard are two-fold. First, they inform stakeholders of the full range of criteria that were considered for inclusion in the minimum requirements. Second, it allows for an evolving implementation of the standard designed to encourage continuous improvement over time. In the first stages of implementation, kilns will be assessed on their progress towards being able to meet these criteria, but kilns will not be in violation of the standard if these criteria are not met immediately.

Definitions of Key Terms

The following list defines several key terms used in this document. Additional terms may be added as needed.

Bonded Labour - Bonded labour, also called “debt bondage,” occurs under the conditions of debt. It is a status or condition that arises from a pledge by a debtor of his or her personal services or of those of a person under his or her control as security for a debt, when the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined. This leads to exploitation of labour in excess of the debt where workers are not free to leave employment till the debt is liquidated with interest, if any. This definition is adapted from Article 1(a) of Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery.

Note: Use of a system of advances paid to workers against future wages does not alone constitute bonded labour; however, the terms and conditions of work such as quotas and length of repayment may be indicators of an inability of workers to pay back the loans through their labour, and thus indicators or risk for bonded labour situations.

Child Labour – ILO Minimum Age Convention, 1973 (No.138) and ILO Worst Forms of Child Labour Convention, 1999 (No.182) and the UN Convention on the Rights of the Child define “child” as any person less than 18 years of age. This BBN standard follows the requirements of ILO Convention 138 by imposing as a core requirement, a minimum age of 14 years for any work, unless local minimum age law stipulates a higher age for work or the end of mandatory schooling, which does not apply as this age is also 14

under Nepali law. The BBN Standard also follows ILO Convention 182 and prohibits any work which harms health, safety and morals of children under the age of 18 years.

Forced Labour - All work or service that is extracted from any person under the menace of any penalty for which said person has not offered himself or herself voluntarily.

Harsh or Inhumane Treatment - Any isolated incident or repeated violation of harassment or abuse of a worker, the nature of which could be verbal, physical, psychological or sexual or any unreasonable disciplinary action such as corporal or monetary punishment.

Minimum Wage - Minimum sum payable to a worker for work performed or services rendered, within a given period, whether calculated on the basis of time or output, which may not be reduced either by individual or collective agreement, which is guaranteed by law and which may be fixed in such a way as to cover the minimum needs of the worker and his or her family, in the light of national economic and social conditions (ILO).

Overtime - All hours worked in excess of normal hours or regular hours as prescribed under the law. For the reference under BBN Standard, the regular hours defined under the Nepal law are 8 hours per day including a break of 30 minutes, and 48 hours per week. Overtime hours are limited to 4 hours in a day and 24 hours in a week.

Representative of the employer – A kiln employee who is responsible for recruiting workers to the kiln, in addition to their regular tasks on the kiln.

Young Workers - Children between 14 and 18 years may also sometimes be referred to as Young Workers, when they are admitted to the regular workforce. Restrictions are still placed on their working conditions (such as in hazardous work, working hours, etc.) and protection against various forms of exploitation as defined in ILO Convention 182.

PRINCIPLE 1: NO CHILD LABOUR IS ALLOWED

Clarification: In accordance with ILO Convention 138 and Nepal's Child Labour Act of 2018, employment of children under 14 years of age is prohibited. Nepal labour law and ILO Conventions 182 and Night Work of Young Persons (Industry) Convention (revised), 1948 (No. 90) also address the employment of young workers between the ages of 14 and 18 and dictate the type of tasks they may engage in, as well as their working hours. Principle 1 requirements strictly prohibit the employment of children under the age of 14 and limit the tasks of young workers. Guidance that accompanies the BBN Standard refers to a list of tasks and related hazards in which young workers may not engage, processes for the remediation of child labour, as well as specifying awareness and training activities for employers and workers on the issue of child labour.

MINIMUM CERTIFICATION REQUIREMENTS

- 1.1.1. Children below 14 years of age are not employed or allowed to work, including in the accompaniment of family members, in any of the processes either part-time or full-time. The employer will document this commitment by adopting a written child labour policy that prohibits children below the age of 14 from working at the kiln.
- 1.1.2. Young workers between the ages of 14 and 18 are employed or allowed to work only with full protection from the worst forms of child labour and fulfilling the following conditions of employment:
 - a) not to be employed in any hazardous operations;
 - b) not allowed to use machinery considered dangerous;
 - c) not allowed to work more than 6 hours per day;
 - d) not allowed to work between 6pm to 6am;
 - e) not allowed to carry loads above the limits stipulated in 4.1.1 (for this age group);
 - f) not allowed to work overtime hours, and;
 - g) provided at least one weekly rest day.
- 1.1.3. Where representatives of the employer recruit individuals that are ineligible to work on the site as per requirements 1.1.1 and 1.1.2, employers work with BBN to make arrangements to remediate the child labour, including reuniting children with their families at a cost which shall be borne by the employer and representative of the employer (where applicable), and placing restrictions on such recruitment in the future by ensuring any advance loans given to the families of such recruits is not taken back.
- 1.1.4. The employer will proactively generate awareness amongst its workers, representatives and other staff, on the prohibition of child labour and restrictions concerning the employment of young workers. This may include providing training, distributing posters/leaflets and organising meetings or other events to effectively communicate these requirements.
- 1.1.5. The employer will maintain an up-to-date register of all workers and their ages, including their job title and responsibilities.

PROGRESS CRITERIA

- 1.2.1. The employer requires its representatives (where applicable) to verify the age of all workers who appear to be between the ages of 14 and 18 years, and ensures that copies of age certificates for these workers are collected at the time of recruitment or submitted to the employer before the worker commences employment.
- 1.2.2. All legal permissions and documentation are completed where young workers between the ages of 14 and 18 are employed, such as submission of relevant information concerning young workers to the Nepal Labour Department in accordance with the prescribed format.
- 1.2.3. Where workers are accompanied by children aged 6 to 14 years, the employer provides facilities or linkages to schools or education centres where available, as per the ages and needs of children and the child labour remediation policy set by BBN.
- 1.2.4. Where children below 6 years of age accompany their families, the employer provides a nursery for babies and/or facilities or linkages to child development centres as per Child Development Centre (CDC) guidelines provided by BBN.

PRINCIPLE 2: NO FORCED OR BONDED LABOUR IS ALLOWED

Clarification: Nepal labour law, Section 2 in the Bonded Labour Prohibition Act 2002, defines bonded labour as work done to pay back debts with no or nominal wages. The requirements of Principle 2 address the cycle of debt workers are subjected to through the prevailing payment system, which includes advance and subsistence payments¹ in lieu of regular wages. While use of advance and subsistence payments by themselves does not necessarily constitute bonded labour, it is the inability of workers to meet high quotas tied to the advance payment system and to pay back accruing debt that bonds them. Therefore, as long as the current wage system remains in place, advances, quotas and subsistence payments must be handled carefully and transparently. The standard requirements address the issue of the payment scheme and define the terms and conditions for employment in line with local law and ILO Forced Labour Convention, 1949 (No. 95) and ILO Abolition of Forced Labour Convention, 1957 (No.105).

MINIMUM CERTIFICATION REQUIREMENTS

- 2.1.1. No forced or bonded labour is allowed. The employer will document this commitment by adopting a written policy that prohibits the use of forced or bonded labour².
- 2.1.2. Debts incurred through advance payments or loans in cash or kind are not used to bond or force workers into employment due to production quotas that cannot be met by the worker in one season. The employer will maintain records of the calculations used to determine the advance or loan amount, including

¹ Subsistence payments are a common practice in the brick industry whereby payments are made to workers during the season that are used by workers for daily living expenses, and are treated similarly to additional advances (not based on production completed or wages earned).

² As per the Standard's definition of no forced or bonded labour and indicated through the criteria outlined under Principle 2.

calculations demonstrating that the advance can be repaid by the worker during one season.

- 2.1.3. Where weekly subsistence payments are provided, the amount must be agreed upon by the employer and worker in advance and shall not lead to increasing debts by exceeding total wages earned.
- 2.1.4. The employer does not use any physical or psychological measures requiring workers to remain employed and workers are free to leave employment after a reasonable and agreed notice period without penalty (this includes withholding of wages³).
- 2.1.5. A written contract or letter of appointment is established between workers and the employer (and where applicable, representatives of the employer) explaining the nature of the work, remuneration, other applicable payments, the required notice period whereby either party may terminate the employment relationship, and working hours that do not contradict the provisions of this standard or the local law.
- 2.1.6. No original documents of the workers are withheld by the employer or any of its representatives.
- 2.1.7. Workers are free to leave work premises at any time after a standard working day and are not retaliated against for refusing to work overtime hours.
- 2.1.8. Deductions from wages for repayment of advances and loans:
 - a) Must be agreed with the worker in advance and indicated on the worker's contract of employment or letter of appointment, except where:
 - i. the advance amount is agreed after the contract or letter of employment has already been signed, in which case an addition to the contract must be agreed and signed by both parties detailing the advance amount and the terms of repayment, or;
 - ii. the advance amount is provided to the worker by a representative of the employer, in which case there must be a written agreement between the parties (worker and representative of the employer) detailing the advance amount and the terms of repayment.
 - b) Must not exceed 33 percent of monthly earnings for workers who earn monthly salaries.
 - c) Must not exceed 33 percent of total earnings per season, for workers who earn a piece rate and settle their total earnings at the end or mid-way through the season.

PROGRESS CRITERIA

- 2.2.1. The employer proactively communicates its written policy as per section 2.1 on non-use of forced or bonded labour to all of its staff, workers and representatives who will be required to follow the policy and related procedures.
- 2.2.2. Where the employer has employed bonded labour directly, or indirectly through a representative of the employer, the employer shall repatriate the bonded labourer back to his/her family or community and forgo any bonded debt paid to the worker or his/her family.
- 2.2.3. Advances or loans must be fixed at an amount which a worker is able to repay within 3 months.

³ Guidance will be provided to ensure that workers know they have the right to have their wages paid out in full if they request to leave work before the end of the season.

- 2.2.4. All wages are paid in full at least monthly and within 7 days after the end of the pay period. If weekly subsistence payments are paid to workers, these constitute a partial payment of wages and the balance is paid in full at least monthly.
- 2.2.5. Where expenditure, including in-kind payments, is incurred by the employer or its representatives, the deductions of such expenses will be fair and reasonable, i.e. payments in kind that:
- a) constitute partial payment for work performed;
 - b) are allowed by law;
 - c) are correctly valued and do not exceed the cost to the worker if obtained elsewhere;
 - d) do not exceed cost to the employer, and;
 - e) are appropriate for the use of the worker and his or her family.

PRINCIPLE 3: FAIR REMUNERATION AND WORKING HOURS

Clarification: Principle 3 requirements seek to address wages and working hours by first establishing a piece rate, which includes the legal minimum wage and based on a 48-hour working week. The piece rate will be set by the Piece Rate Committee, a sub-committee of the BBN Steering Committee. The criteria also refer to actual working hours to ensure that workers and employers have an understanding of working hours and overtime, and that workers are not forced into working overtime hours. Practices should also align with ILO Hours of Work (Industry) Convention, 1919 (No.1), ILO Weekly Rest (Industry) Convention, 1921 (No.14), ILO Protection of Wages Convention, 1949 (No.95) and ILO Minimum Wage Fixing Convention, 1970 (No.131). The requirements also establish the need for a transparent record keeping system of wages, deductions and working hours. Management should also ensure that there is no wage discrimination based on age, gender, race, political affiliation, religion, disability, sexual orientation or caste.

MINIMUM CERTIFICATION REQUIREMENTS

- 3.1.1. The employer is able to demonstrate that all workers earn at least the legal minimum wage, calculated with respect to a 48-hour working week (including calculation of piece rate, monthly wage or other types of payment systems).
- 3.1.2. Records are maintained of production completed, wages earned and paid, describing the deductions, if any, including advances, subsistence payments and balances, and these are communicated to workers on at least a monthly basis (with signature of receipts by workers).
- 3.1.3. Workers shall be engaged between the hours of 6pm to 6am only through the mutual agreement of the worker and the employer.
- 3.1.4. Workers are not forced or compelled to work excessive hours as a result of coercion, production pressure or low wage rates. The employer shall have a system to document working hours for all workers that is credible and verifiable (including individual workers from the same family).
- 3.1.5. The employer effectively communicates, prior to the commencement of employment, the terms and conditions of employment with respect to remuneration, benefits and working hours.

PROGRESS CRITERIA

- 3.2.1. Regular working hours for any adult worker does not exceed 48 hours per week and 24 hours of overtime per week. One rest day must be provided in every 7 days. For firemen who work on two shifts per day of 6 hours each, the breaks must be staggered such that they take at least one 10-hour break between 2 days.
- 3.2.2. Pay-slips are provided that include information on days worked, production completed, wages earned, deductions, balance of advance or loans where applicable, and net amounts paid.
- 3.2.3. Each worker is paid individually as per the employment contract and not to a family member or family head on behalf of the worker.
- 3.2.4. Workers receive 150 percent of their normal wages for overtime hours worked. Where work is undertaken on a piece rate basis, remuneration at 150 percent of usual remuneration is calculated for average pieces worked during overtime (this is based on total production in a normal wage period and total hours worked), and workers are paid accordingly for any such overtime hours worked.
- 3.2.5. Workers who have associated with the kiln continuously for two or more seasons shall be provided with the following, as specified under the Nepal Labour Act:
 - a) retaining allowance at 25% of the remuneration for the off-season period;
 - b) provident fund payments to deposited in the social security fund of the worker;
 - c) gratuity payments to be deposited in the social security fund of the worker;
 - d) all legally applicable paid leave and holidays;
 - e) bonus payment(s) (at the discretion of the employer);
 - f) accident and medical insurance;
 - g) compensation payment(s) in case of worker incapacitation or injury, and;
 - h) annual Dashain festival allowance equivalent to one-month basic pay.

PRINCIPLE 4: WORKPLACE SAFETY AND HEALTH SHALL BE RESPECTED

Clarification: The certification requirements for workplace health and safety address the pressing need to ensure the safety of all those working on brick kiln sites. Where local labour law establishes workplace health and safety requirements, specifically Labour Rule 2018, local law is followed. Where local law does not address health and safety concerns, ILO Occupational Safety and Health Convention, 1981 (No.155), ILO Chemicals Convention, 1990 (No.170) and ILO Promotional Framework for Occupational Safety and Health Convention, 2006 (No.187) are consulted. The criteria are proactive in establishing preventative mechanisms to limit workplace injury, as well as addressing health and sanitation needs for those living on the brick kiln site. Guidance explicitly specifies the health and safety materials/equipment that must be maintained at all kiln sites, as well as the training that workers are to receive.

MINIMUM CERTIFICATION REQUIREMENTS

- 4.1.1. The employer and its workers are aware of the maximum carrying loads which should not be exceeded, which are as follows:
 - a) adult male: 55 kg;
 - b) adult female: 45 kg;
 - c) young worker male (16-18 years): 25 kg;

- d) young worker female (16-18 years): 20 kg;
- e) young workers (14-16): 15kg.

This requirement applies to carrying bricks on the head and on the back and does not apply to bricks carried by mule-driven buggies, wheelbarrows or pushcarts fitted with wheels.

- 4.1.2. For living accommodation, the following conditions are met:
 - a) single male and female workers are provided separate accommodation areas;
 - b) bathing facilities with privacy and clean bathing water are provided, and;
 - c) the employer provides guidance to workers for building structurally safe accommodations.
- 4.1.3. Sanitary facilities are provided for workers and their families, which meet the following conditions:
 - a) a single toilet is allotted for no more than three families (maximum of 15 persons per toilet);
 - b) kiln management will ensure that toilet facilities are cleaned at least once per day;
 - c) the use of all grounds in lieu of toilet facilities is strictly prohibited and this is clearly communicated to all residents;
 - d) for single residents, separate facilities are provided for men and women with adequate safety, privacy and security, and;
 - e) toilet facilities are easily accessible for workers in the workplace and accommodation areas.
- 4.1.4. All workers and each member of his or her family are provided sufficient potable water to meet their daily needs. Potable water is to be maintained near the brick kiln's firing station and accessible to workers throughout the working day.
- 4.1.5. Routes used for carrying bricks are levelled to minimise tripping hazards.
- 4.1.6. The employer proactively raises awareness amongst its workers, representatives and other staff concerning workplace health and safety, including responsibilities where applicable.
- 4.1.7. For each 100 workers, one fully stocked first aid kit is available and at least one trained first-aider is available on site at all times during working hours.

PROGRESS CRITERIA

- 4.2.1. The employer is responsible for providing Personal Protective Equipment (PPE) free of charge to all applicable workers as follows:
 - a) protective eye wear for tasks involving the use of all types of grinding equipment, drilling or boring;
 - b) boots and protective gloves when working with caustic substances or chemicals, and;
 - c) protective shoes for workers removing and hauling bricks.

The employer will provide training to workers regarding the correct use of PPE, and will ensure that such equipment is used in accordance with this training.

- 4.2.2. Stairs, scaffolds, or ladders used must be safe and adequately secured.
- 4.2.3. The employer ensures that workers have access to existing medical facilities. Existing formal linkages between the employer and medical facilities will be maintained, where applicable and feasible.
- 4.2.4. The employer provides shaded areas, protected from the sun, for breaks and meals where workers can sit and rest with potable water maintained at all times. With the exception for firemen who require rest areas near their worksite, this includes any worker accommodation situated on the kiln premises that can be accessed easily during break and meal times.
- 4.2.5. Machinery is only used by authorized, trained and experienced personnel. Such machinery that has a potential to cause injury is installed in a separate area away from unauthorized personnel, installed with emergency stop buttons and machine guards, and connected to a secure and safe electrical supply. Where required, the employer will hold valid permits for all machinery it uses and will carry out maintenance and safety testing of such equipment in accordance with applicable law.

PRINCIPLE 5: NO HARSH OR INHUMANE TREATMENT IS TOLERATED

Clarification: Principle 5 sets out the policies and procedures that kilns should adopt to ensure there is no harassment, harsh or inhumane treatment of workers. It also establishes a grievance mechanism for workers to use in cases of mistreatment. Practices should conform with the ILO Termination of Employment Convention, 1982 (No.158) and follow local law for establishing disciplinary and misconduct procedures.

MINIMUM CERTIFICATION REQUIREMENTS

- 5.1.1. The employer must establish a grievance mechanism through which worker grievances can be raised, assessed, investigated, addressed, and recorded. Senior management representative(s) from the kiln are appointed to investigate and discuss grievances, and to notify workers of the outcome of grievance investigations. These representatives should include at least one female kiln employee. The employer must also ensure that female workers have the option of being accompanied to grievance hearings by another female representative of their choice (such as a kiln representative, family members or fellow worker). The employer ensures that the details of grievances raised, including the identity of individuals involved, remains confidential where required.
- 5.1.2. The employer adopts a written zero-tolerance policy towards harassment or abuse, including but not limited to verbal, psychological, corporal, and sexual harassment and abuse. The policy details the penalties involved for committing such abuse or harassment.
- 5.1.3. The employer proactively communicates the zero-tolerance policy and grievance mechanism to all workers, staff and its representatives.

PROGRESS CRITERIA

- 5.2.1. The employer shall not retaliate against the complainant, even in cases where complaints are found to be unsubstantiated.

5.2.2. A clear disciplinary policy and procedure is in place that ensures disciplinary actions are not unreasonable (such as mentioned in requirement 5.1.1) and that no monetary fines are imposed.

CROSS CUTTING: NON-DISCRIMINATION

Clarification: The principle of non-discrimination is also included as a cross-cutting principle. In accordance with ILO Equal Remuneration Convention, 1951 (No.100) and ILO Discrimination (Employment and Occupation) Convention, 1958 (No.111), workers may not be subjected to discrimination based on age, gender, race, political affiliation, religion, disability, sexual orientation, national origin or caste. When discrimination is found, management should immediately initiate a grievance process and transparently remediate the case.

Log of Standard changes

Version number	Date of change	Changes
Aug 2015_v1	17 August 2015	First publication of the BBN Standard
Dec 2018_v1.2	21 December 2018	Addition of log of Standard changes
Dec 2018_v1.2	18 December 2018	Changes made to 2.1.9, 4.1.1, 5.1.2
Oct 2020_v2.0	1 October 2020	Removed reference to 'labor contractors'. 1.1.2: young workers defined as 14-18; 1.1.5: register of workers required; 2.1.2: calculations determining advances required; 2.1.8: Advance recorded in labor contracts; maximum wage deduction 33% of earnings; 3.1.4: system to document working hours; 3.2.3: wages must be paid directly to worker; 3.2.5: payment of bonuses at kilns discretion; 4.1.3b: kiln owner is responsible for having toilet facilities cleaned once per day; 4.2.1: kiln owners must train on use of PPE; 4.2.3;. access to medical facilities; 4.2.4: shaded areas can include workers accommodation; 5.1.1: at least one female representative on grievance committee, female complainants may have female accompaniment.