

Better Brick Nepal (BBN) Standard Criteria

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Overview:

The Better Brick Nepal (BBN) project was initiated in August 2013 to address labour challenges in the 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, the kilns benefit from technical assistance and access to new high value markets. The BBN standard will meet 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.

Three organizations are partnering to implement the initiative: the Brick Clean Group Nepal (BCN), Global Fairness Initiative (GFI) and GoodWeave International (GWI). This work is supported by Humanity United, an organization dedicated to building peace and advancing freedom in the world.

The current draft BBN Standard requirements are based on criteria identified by the project partners and critical issues in the brick kiln industry in Nepal, 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). Building on GoodWeave’s experience developing and implementing its standard for the carpet industry and on key principles identified by BCN, these draft criteria have been tested during preliminary pilot audits with a group of participating kilns, and reviewed by the BBN Standards Committee. GoodWeave welcomes feedback from all interested stakeholders on this draft and will continue to refine the draft Standard on the basis of input received through the public consultation process.

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 will develop the standard and verification methodology that will be used to assess the labour rights and working conditions at participating brick kilns. Guidance will accompany the BBN standard to describe the requirements in greater detail and provide clarification where needed. The geographic and industry scope of the BBN Standard is intended to be limited for application 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. Remuneration and working hours
4. Workplace safety and health
5. No harsh or inhumane treatment

Each of these principles contains a number of compliance 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 criteria of principle one (no child labour) states that “children below the age of 14 are not employed or allowed to work, including in the accompaniment of 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 into the minimum requirements. Second, it allows for an evolving Standard designed to encourage improvements 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. Once half of the kilns have progressed to the point of being able to meet this additional criterion, it will be adopted into the minimum criteria and audit process, and kilns will then be held accountable for non-compliances found.

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 personal services or of those of a person under his 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 Conventions 138 and 182 and the UN Convention on the Rights of the Child define “child” as any person less than 18 years of age. This Standard follows the requirements of ILO Convention 138 by imposing as a core requirement a minimum limit of 14 years on 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 in Nepali law. The 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/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 standards, the regular hours defined under the Nepal law are eight hours per day including a break of 30 minutes, and 48 hours per week, and overtime hours are limited to four hours in a day and 20 hours in a week.

Young Workers - Children between 14 to 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) 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 2000, employment of children under 14 years of age is prohibited. Nepal labour law and ILO Conventions 182 and 90 also address the employment of young workers, ages 14-18 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 will refer 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 specify 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 part-time or full-time.

1.1.2: Young workers between the ages of 14 to 16 are employed or allowed to work only with full protection from worst forms of child labour and fulfilling conditions of employment as listed below:

- (a) Not to be employed in any hazardous operations.
- (b) Not allowed to work on machines 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 load above 15 kgs.
- (f) Not allowed to work on overtime hours.
- (g) Provided weekly rest day.

Besides the above conditions, employers refer to the list of tasks and related hazards and hours produced by the BBN initiative for restricting the employment of workers between the ages of 14 to 16 years of age.

1.1.3: Where contractors 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 them with their families at the cost borne by the employer and Naika (labour contractor), and put 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 Employer takes actions on generating awareness among the workers, Naikes and staff, on prohibition and restrictions in employment of child labour and young workers, such as training, posters, events and meetings.

PROGRESS CRITERIA:

1.2.1: Where young persons or adolescents between the ages of 16 to 18 are employed these workers are:

- (a) Not allowed to work for overtime hours.
- (b) Not allowed to work between 6pm to 6am.
- (c) Not allowed to carry loads above 25kg in case of males and 20kg in case of females.
- (d) Provided weekly rest day.

Besides the above conditions, employers adhere to the list of hazardous tasks and hours produced by the BBN initiative for restricting the employment of workers between the ages of 16 to 18 years of age.

1.2.2: Employer requires the labour contractor (Naikes) to verify the age of all workers who appear to be on the borderline of 14, 16 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 beginning work on site.

1.2.3: All legal permissions and documentation are completed where young workers between the age of 14 to 16 and 16 to 18 are employed, such as submission of details of young workers to labour department as per prescribed format.

1.2.4: Where workers accompanied by their children age six to 14 years, employer provides facilities or linkages to schools or education centers – where available, formal schools or centers – as per the ages and needs of children and the child labor remediation policy set by BBN.

1.2.5: Where children below six years of age accompany their families, the employer provides a nursery for babies and/or facilities or linkages to child development centers 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. The requirements of Principle 2 address the cycle of debt workers are subjected to through the advance payment system. While advance payments alone do not constitute bonded labour, it is the inability of workers to meet high quotas tied to the advance amount that bonds them. Therefore, as long as the advance system remains in place, quotas tied to advances must be regulated and transparent. The standard requirements address the issue of the advance payment scheme and define the terms and conditions for employment in line with local law and ILO Conventions 29, 95 and 105.

MINIMUM CERTIFICATION REQUIREMENTS:

- 2.1.1** No forced or bonded labour is allowed.¹
- 2.1.2** Debts incurred through advances or loans in cash or kind are not used to bond or force workers into employment through quotas that cannot be met by the worker in one season (without involving assistance of children).
- 2.1.3** The employer does not use any form of 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.
- 2.1.4** A written contract or letter of appointment is established between workers and kiln owners (and when relevant Naikes) explaining nature of work, remuneration and service conditions around voluntary employment, payments, and working hours that do not contradict the provisions of this standard or the local law.
- 2.1.5** No original documents of the workers are withheld by employer or any of his representatives including the labour contractor.
- 2.1.6** Workers are free to leave work premises at any time after a standard work day and not retaliated against for refusing to work overtime hours.
- 2.1.7** All earnings are paid in full (after deductions of expense payments) at least monthly and within seven days after the end of the pay period. Deductions for repayment of advances and loans:
 - a) Must be agreed with the worker in advance and indicated on the worker contract or letter of appointment.
 - b) Must not be more than 20 percent of the total principal amount of the original advance or loan.
 - c) Must not exceed 25 percent of monthly earnings.

¹ As per the Standard's definition of no forced or bonded labour and indicated through the criteria outlined under Principle 2.

PROGRESS CRITERIA:

- 2.2.1** Employer adopts a written policy as per section 2.1 and 2.2 on non-use of forced or bonded labour and makes effective communication to all staff, workers and labour contractors to follow the policy and procedures.
- 2.2.2** Where employer has employed bonded labour directly or indirectly through a contractor, employer shall repatriate the bonded labour back to his/her family/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 three months (without involving assistance of children).
- 2.2.4** Where expenditure, including in-kind payments, is incurred by employer or his representative including labour contractors, the deductions of such expenses will be fair and reasonable, i.e. payment in kind:
 - (a) Constitutes partial payment for work performed.
 - (b) Is allowed by law.
 - (c) Are correctly valued and do not exceed the cost to the worker if obtained elsewhere.
 - (d) Does not exceed cost to the employer.
 - (e) Appropriate for the use of the worker and his or her family.

PRINCIPLE 3: 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 work 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 Conventions 1, 14, 95 and 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 gender, race, age 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 hours work week (including calculation of piece rate, monthly wage or other types of payment systems).
- 3.1.2** Records are maintained for production completed, wages earned and paid, describing the deductions, if any, including advances and balances, 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 workers and employers.
- 3.1.4** Workers are not forced or compelled to work excessive hours as a result of coercion, production pressure or low rate of wages.
- 3.1.5** Employer effectively communicates to all workers, staff and labour contractors the terms and conditions of work with respect to remuneration, benefits and working hours.

PROGRESS CRITERIA:

3.2.1 Regular hours of any adult worker do not exceed 48 hours/week and 20 hours of overtime per week. One rest day must be provided in seven days.

For firemen who work on two shifts per day of six hours each, the breaks must be staggered such that they get at least one 10 hour break between two days

3.2.2 Kiln shall have a system to document working hours for all workers in a credible and verifiable manner, including workers from the same family.

3.2.3 Pay-slips are provided that include information on days worked, production completed, wages earned, deductions, balance of advance or loans if any, and net amount paid.

3.2.4 Payment is made directly to the worker/family head working in the kiln, or overseen by relevant kiln representative in case payment is made by labour contractors.

3.2.5 Workers receive 150 percent of their normal wages for work during overtime hours. In case of piece rate work, 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 paid for any overtime hours worked.

3.2.6 Workers who have associated with the kiln continuously for two or more seasons shall be provided with the following:

- a. Retaining allowance at 25% of the remuneration for the off-season period
- b. Provident fund
- c. Gratuity as per eligibility
- d. Legally applicable paid leaves and holidays
- e. Bonus as per eligibility
- f. Accident insurance
- g. Any other legal benefits

3.2.7 Naike/labour contractors register themselves as a firm or service provider and obtain permission from regional administrative office in order to recruit workers for the employer.

PRINCIPLE 4: WORK PLACE SAFETY AND HEALTHY

Clarification: The certification requirements in work place safety and health address the pressing needs for workers' safety and health on the brick kiln site. Where local labour law establishes work place safety and health requirements, specifically Labour Rules of 1992 and 1993, local law is followed. Where local law does not address safety and health concerns, ILO Conventions 155, 170 and 187 are consulted. The criteria are proactive in establishing preventative mechanisms to limit workplace injury, as well as address health and sanitation needs while living on the brick kiln site. Guidance will explicitly specify the safety and health materials that must be maintained on kilns, as well as the training that workers are to receive.

MINIMUM CERTIFICATION REQUIREMENTS:

4.1.1 Maximum limit of loads to be maintained as below:

- (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.

4.1.2 For living accommodations the following conditions are met:

- (a) Single male and female workers are provided separate accommodation areas.
- (b) Separate bathing facilities will be provided for men and women with clean bathing water.

*Producer provides recommendations 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 will be allotted for no more than three families (maximum of 15 persons per toilet).
- (b) Toilet facilities are cleaned at least two times per day.
- (c) The use of all grounds in lieu of toilet facilities is strictly prohibited and will be clearly communicated to all residents.
- (d) For single residents, separate facilities will be provided for men and women with adequate safety, privacy and security.
- (e) Toilet facilities will be 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 work day.
- 4.1.5 Leveling of passages is done for the routes which are used for carrying bricks in order to make the passages secured from tripping hazards.
- 4.1.6 Employer creates awareness about the health and safety provisions to all workers, Naikes and staff and including responsibilities through – awareness generation activities.
- 4.1.7 For each 100 workers, one fully stocked first aid kit is available and there is at least one person trained in first aid available on the premise at any time when kiln is running.

PROGRESS CRITERIA:

- 4.2.1 Personal protective equipment will be provided 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.
 - (c) Protective shoes will be provided for workers removing and hauling bricks.
- 4.2.2 Stairs, scaffolds, or ladders used must be safe and adequately secured.
- 4.2.3 Formal linkages and easy access for workers to existing medical facilities are provided.
- 4.2.4 Canteen with food and rest room/area is provided where more than 50 workers are employed.
- 4.2.5 Machines are used by authorized, trained and experienced personnel, and such machines that have a potential to cause injuries are installed in separate area away from exposure to unauthorized personnel, installed with emergency stop buttons and machine guards, with secured electrical supply. Permits and testing are done for machines that require them.

PRINCIPLE 5: NO HARSH OR INHUMANE TREATMENT

Clarification: Principle 5 sets out the policies and procedures kilns should adopt in order 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 Convention 158 and follow local law for establishing disciplinary and misconduct procedures.

MINIMUM CERTIFICATION REQUIREMENTS:

- 5.1.1:** Employer establishes a grievance mechanism and appoints a senior management representative(s) [which shall include at least one woman responsible for hearing workers' grievances concerning alleged sexual harassment or abuse] to investigate and discuss grievances, and notify worker of resolution, maintaining confidentiality where required.
- 5.1.2:** Employer adopts a zero tolerance policy (written or unwritten) 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 effectively communicates the zero tolerance policy and grievance mechanism to all workers, staff and contractors.

PROGRESS CRITERIA:

- 5.2.1:** Employer adopts non-retaliation approach to complainant. Even in the case that complaints are found to be unsubstantiated.
- 5.2.2:** A clear policy and system on disciplining is in place that ensures disciplinary actions are not unreasonable (such as mentioned in section 6.1.1). No monetary fines are imposed.
- 5.2.3:** Employer maintains adequate systems to record the reporting of complaints, incidents of excessive treatment, investigations, and resulting procedures followed or actions taken to resolve them.

Cross-cutting: Non-Discrimination

Clarification: The principle of non-discrimination is also included as a cross-cutting principle. In accordance with ILO Conventions 100 and 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 open a grievance process and transparently remediate the case.