

May 22, 2024

The Honorable Merrick Garland
United States Attorney General
Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

cc: Deputy Attorney General Lisa Monaco, Deputy Assistant Attorney General and Counselor for International Affairs Bruce Swartz, Acting Chief of Money Laundering and Asset Recovery Section Molly Moeser, Secretary of State Antony Blinken, Assistant Secretary of State for Near Eastern Affairs Barbara Leaf, Ambassador-at-Large for Global Criminal Justice Beth Van Schaack

Re: Joint Civil Society Statement Urging U.S. Attorney General to Direct Lafarge Asset Forfeiture to Benefit Victims and Survivors

Dear Attorney General Garland:

The undersigned organizations and individuals—with representation from Syrian, Yezidi, American, and international victims' and survivors' associations and civil society organizations—urge the U.S. Attorney General to abide by Department of Justice policy¹ and ensure that the forfeited assets from its landmark criminal case against Lafarge S.A. and Lafarge Cement Syria S.A. are earmarked to benefit victims and survivors of underlying atrocity crimes linked to Syria.

In October 2022, the French building materials manufacturer Lafarge S.A. and its Syrian subsidiary pled guilty to conspiring to provide material support to terrorist organizations. Lafarge admitted to making payments to the Islamic State of Iraq and al-Sham (ISIS) and al-Nusra Front (ANF) from 2013 to 2014 to continue operating a cement plant in Jalabiya in Northern Syria. Lafarge's payments enabled ISIS and ANF to implement their rule of terror and carry out atrocity crimes in Syria, as well as Iraq, making the company complicit in victimizing Syrian, Yezidi, and other communities. As part of the plea agreement, Lafarge paid the U.S. government a \$90.78 million criminal fine and a \$687 million forfeiture. We understand that the forfeited assets were deposited into the U.S. government's Assets Forfeiture Fund in November 2022.

Communities affected by crimes in Syria—including those harmed by ISIS and ANF's grave violations of international law and those living under their control—have no access to effective remedy in Syria.² Displacement, ongoing conflict, and other circumstances limit victims' ability to recover from the violations they have suffered, while procedural, jurisdictional, and logistical

¹ *The Attorney General's Guidelines on the Asset Forfeiture Program* (U.S. Department of Justice, July 2018), 4; *Asset Forfeiture Policy Manual 2023* (U.S. Department of Justice, 2023), 14-1.

² UN Human Rights Council, Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, A/HRC/46/54, 11 March 2021, paras. 97-101; Amnesty International, *Aftermath: Injustice, Torture, and Death in Detention in North-East Syria*, 2024, p. 24.

hurdles routinely prevent victims and survivors from accessing the reparative and remedial measures they are rightfully owed.

The Lafarge plea agreement offered a sliver of hope that affected communities may receive long overdue support, guided by their input, to enable their recovery. We are gravely concerned that the Lafarge forfeiture will be retained by the Department of Justice and used for general U.S. Government use, unconnected to victims of Lafarge's activities and ISIS and ANF violations originating in Syria. We strongly urge U.S. Attorney General Merrick Garland to use his expansive statutory discretion to earmark the Lafarge forfeiture for the benefit of victims and survivors who were impacted by atrocity crimes linked to Syria.

The return of forfeited assets to victims is a "primary goal" of the Department of Justice,³ and according to the applicable U.S. law and policy,⁴ the Attorney General has broad discretion to earmark the Lafarge asset forfeiture for the benefit of underlying victims and survivors. The United States also has an obligation as a matter of international law to take appropriate steps to ensure access to remedy for human rights abuses that are subject to their jurisdiction.⁵

While we acknowledge the logistical hurdles involved in supporting victims abroad, creative solutions can help overcome these challenges. Attorney General Garland has previously used his broad discretion to pursue "creative solutions" to transfer forfeited Russian assets for the benefit of the Ukrainian people.⁶ Here, he can invoke the same discretionary powers and pursue creative solutions to earmark the Lafarge assets to benefit victims and survivors.

Victims, survivors, and affected communities should play a key role in determining how the \$687 million Lafarge forfeiture funds will be used. Efforts are underway to consult with victim and survivor associations and civil society groups to understand how funds collected by States as a result of violations linked to Syria, including the Lafarge forfeiture, could be directed to support victims and best address their needs. In addition, pathways for distributing such funds

³ *The Attorney General's Guidelines on the Asset Forfeiture Program* (U.S. Department of Justice, July 2018), 4; *Asset Forfeiture Policy Manual 2023* (U.S. Department of Justice, 2023), 14-1.

⁴ According to the Lafarge plea agreement, the funds were forfeited under 18 U.S.C. §§ 981(a)(1)(C) and 981(a)(1)(G), 21 U.S.C. § 853(p), and 28 U.S.C. § 2461(c). Pursuant to 18 U.S.C. § 981(e), the Attorney General is authorized "to retain property forfeited pursuant to this section, or to transfer such property . . . to any other Federal agency . . . [or] as restoration to any victim of the offense giving rise to the forfeiture," under any terms or conditions; and pursuant to 21 USC 853(i), may "take any other action to protect the rights of innocent persons which is in the interest of justice and which is not inconsistent with the provisions of this section."

⁵ International Covenant on Civil and Political Rights, Article 2(3)(a); Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War, Article 1. This obligation is also reflected in the UN Guiding Principles on Business and Human Rights, which the United States committed to in its 2024 United States Government National Action Plan on Responsible Business Conduct. UN Guiding Principles on Business and Human Rights, Principle 25; United States Government National Action Plan on Responsible Business Conduct, 2024, pp. 21-24.

⁶ In February 2024, the U.S. agreed to transfer nearly \$500,000 in forfeited Russian funds to Estonia for the benefit of Ukraine. These funds will be used to benefit Ukrainian victims and survivors who are not considered "victims" under U.S. law governing asset forfeiture. "Justice Department Transfers Approximately \$500,000 in Forfeited Russian Funds to Estonia for Benefit of Ukraine," U.S. Department of Justice (Feb. 17, 2024); *Asset Forfeiture Policy Manual 2023* (U.S. Department of Justice, 2023), 14-1.

are being explored.⁷ More work needs to be done to understand victims' and survivors' needs and preferences, and to develop mechanisms that address them. In the meantime, the Attorney General should earmark and preserve the Lafarge funds to benefit victims and survivors of serious international law violations originating in Syria.

No state should profit from international law violations in Syria. Assets forfeited as a result of prosecutions linked to such violations should be used to help the underlying victims and survivors, whose needs remain significant. Nearly eighteen months have passed since Lafarge's forfeited funds were deposited into the Assets Forfeiture Fund. The window of opportunity to earmark the Lafarge forfeiture is quickly closing. Pursuant to Justice Department policy,⁸ and in accordance with U.S. obligations under international law, we strongly urge the Attorney General to immediately use his discretion to allocate the Lafarge forfeiture for the benefit of victims and survivors.

Sincerely,

Organizations:

Adra Detainees Association

al Ahd Organization

Amal Healing and Advocacy Center

Amnesty International

**Association of Detainees and the Missing
in Sednaya Prison**

Bassmet Wattan Center

Baytna

Caesar Families Association

Center for Justice & Accountability

Citizens for Secure and Safe America

Civil Rights Defenders

**Coalition of Families of Persons
Kidnapped by ISIS (Massar)**

Corporate Accountability Lab

Dawlaty

The Day After

Do Not Suffocate Truth Campaign

Families for Freedom

Families of Truth and Justice

⁷ One pathway for distributing such funds could be through an intergovernmental fund that would pool and disburse various countries' forfeiture orders, monetary judgments, damages, fines, and penalties linked to international law violations in the conflict in Syria, as recommended by the European Parliament. European Parliament, Recommendation to the Council, the Commission and the EEAS on the situation in Syria, Recommendation 2023/2052(INI) (28 February 2024), ¶ 1(o), https://www.europarl.europa.eu/doceo/document/TA-9-2024-0109_EN.html. This and other potential pathways are set out in an ongoing blog series published on Just Security. "Series on Syrian Victims Fund," Just Security, <https://www.justsecurity.org/tag/Series-on-Syrian-Victims-Fund/>.

⁸ *The Attorney General's Guidelines on the Asset Forfeiture Program* (U.S. Department of Justice, July 2018), 4; *Asset Forfeiture Policy Manual 2023* (U.S. Department of Justice, 2023), 14-1.

Free Yezidi Foundation

General Union of Internees and Detainees

Global Survivors Fund

Hevdesti-Synergy Association for Victims

Impunity Watch

Jawab

Observatory of Political and Economic Networks

REDRESS

Release Me

Stichting Syrian Female Journalists Network

Syrian American Council

Syrian British Consortium

Syrian Feminist Lobby

Syrian Feminist Society

Syrian Forum

Syrian Legal Development Programme

Syrian Women's Political Movement

Taafi initiative

The Tahrir Institute for Middle East Policy

The White Helmets

Women Now for Development

Yazda

Yazidi Legal Network

Individuals:

Amal Al Nasin, Syrian lawyer

Ayman Alhaddad, Journalist and television director, member of Truth and Justice Charter

Rula Asad, Journalist and researcher

Rima Flihan, Writer, human rights activist, and feminist

Muhammad Bakr Ghbeis, Board Member of Citizens for a Secure and Safe America

Qutaiba Idlbi, Senior Fellow, Syria - Atlantic Council

Lama Ismail, Researcher and analyst

Tarek Jabir, Engineer

Mariam Jalabi, Representative of the Syrian National Coalition to the UN, Co-Founder of the Syrian Women's Political Movement

Sema Nassar, Human rights defender

Ibrahim Olabi, Barrister - Guernica 37

Joumana Seif, Legal Advisor & Nonresident Senior Fellow, Atlantic Council Strategic Litigation Project