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ILF Participates in UNODC Expert Group Meeting on Draft UN Legal Aid Guidelines

NEW YORK – From March 14-16, The ILF's Advocacy Director Jennifer Smith participated in an expert group meeting in Vienna convened by the United Nations Office on Drugs and Crime (UNODC). The meeting was organized to further develop the draft UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, which had been requested by the UN's Economic and Security Council in resolution 2007/24. This document is intended to provide guidance to States on their obligation to provide legal aid to poor persons in criminal cases, and set minimum standards for the implementation of this right.

Given its unique, experience in establishing public defense systems in post-conflict and transitional countries, the ILF was able to provide important expertise and guidance, persuading the expert group to include more specific language for how states should implement the right to counsel.

In particular, Smith urged the expert group to adopt the principle that all persons accused of an offense where the penalty could include imprisonment should be afforded the assistance of a lawyer for their defense. Smith also pointed out that in order for this right to counsel to be meaningful, it is essential that accused persons be provided with a lawyer at the earliest possible stage of the criminal justice process. This is necessary to ensure that the rights of the accused are protected at the point where they are most vulnerable to abuse, and that they have the opportunity to make an effective application for bail or pretrial release, thereby avoiding unnecessary and often lengthy pre-trial detention.

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The right to counsel is a fundamental component to the right to a fair trial and the rule of law. The obligation of states to provide representation to indigent defendants is found in the International Covenant on Civil and Political Rights (ICCPR) as well as numerous other sources of international law. However, no UN body has yet produced guidelines for how this right should be implemented. While there is a consensus that states are obligated to provide this crucial protection, in practice millions of poor people around the world are routinely tried and punished without access to meaningful legal representation.

The ILF is privileged to have had the opportunity to participate in this expert group meeting. We strongly believe that these draft UN legal aid guidelines are of critical importance to developing fair and efficient criminal justice systems around the world. We look forward to continuing to play an active role in advocating that these guidelines are adopted by the UN and implemented by member states.

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About the International Legal Foundation:

Created in 2001, the ILF is an international nongovernmental organization that assists post-conflict and transitional countries in establishing public defender systems that provide effective, quality criminal defense services for the poor. It is guided by two fundamental principles: that laws must be drafted with an appreciation of the cultural realities of the country in which they will function; and that defense lawyers—as guardians of due process—are indispensable to any fair system of justice and must be provided to anyone accused of a crime.