

2009-2011



# Annual Report

[www.dplf.org](http://www.dplf.org)

# DPLF



[www.dplf.org](http://www.dplf.org)

# DPLF

# Message from our President and Executive Director

Dear friends and colleagues:

As the saying goes, the more things change the more they stay the same. While many things have changed in the 15 years that the Due Process of Law Foundation (DPLF) has been in existence, one thing has stayed the same: those fighting for justice in Latin America are under a lot of pressure. Too often, the failure of the region's justice systems to withstand political or corporate pressure has resulted in further, often grave, violations of human rights. In so doing, the systems have become a party to the further weakening of democratic institutions and practices.

DPLF was established in 1996 in a post-military dictatorship era and at the end of a period of internal armed conflicts in Latin America. The issues under discussion at the time were mostly associated with transitional justice. Chile and Argentina's agenda was to restore democracy after ending military governments. Peru, El Salvador and Guatemala were emerging from years of internal armed conflicts and seeking their own truth and justice for what had transpired in their societies. Furthermore, as indicated in the report issued by the United Nations Commission on the Truth for El Salvador (From Madness to Hope: The 12-year war in El Salvador), the country's judicial system had been ineffectual in protecting the society and its citizens, and all too often complicit in violating fundamental rights. The realization that many of the judicial systems in the region were in the same situation led the members of this Commission to establish DPLF – to help strengthen these systems so vital to bringing justice and fostering democracy in the region.

DPLF's founders firmly believed that judiciaries at the national level and within international legal systems should play a key role in protecting the rule of law and fundamental rights, especially for those who are the most vulnerable in our societies. Furthermore, they believed that the only way that judicial systems will fully implement necessary reforms and start to function as they should is if society consistently demands that the system truly fulfill its judicial duty. Therefore, judicial systems should be challenged, and made aware of the reality in our societies, through the consistent use of the tools we have at hand.

Today, globalization, the impact of natural resources extraction and corporate accountability are at the forefront of the daily pressures on justice and human rights in the region. Judicial independence, faced with these kinds of pressures, is that much more important and necessary to ensure justice for all citizens, particularly those who are most vulnerable.

Over the past three years, while undergoing extensive internal evaluation and strategic planning for the future, DPLF continued its work on transitional justice and judicial independence issues as well as initiating a new focus on the “new generation” of justice and human rights issues confronting societies throughout Latin America. Through our research, outreach and advocacy work, DPLF supported civil society organizations, some small and geographically removed, demanding that the judicial systems in their countries fulfill their duty to impart jus-

tice equally to all. DPLF also sought to support those judges and prosecutors who – often in spite of isolation and threats – furthered the on-going struggle for justice in their countries.

Our successes include:

- **Raising awareness of Peru’s international obligations** to consult with the indigenous populations affected by the country’s extensive economic development projects, which eventually resulted in the approval of the first Law on the Right of Consultation of Indigenous Peoples in the Latin American region..
- **Thwarting yet another attempt to limit judicial independence in El Salvador** through **strategic alliances and advocacy activities** with local civil society groups and allied officials that resulted in the withdrawal of a bill requiring unanimous rulings by the Constitutional Chamber of the Supreme Court.
- **Unveiling a serious lack of judicial independence in Panama and bringing international attention** to a situation that was being misrepresented and allowing for the harassment of civil society groups that spoke up.
- **Amplifying the voice of Civil Society** and mitigating negative effects of an OAS initiative to review how the **Inter-American System on Human Rights** carries out its work.

More extensive descriptions of each of these successes are included in this publication. We invite you to peruse our report to get a full idea of what DPLF does and how we do it.

Our internal (strategic planning) and external (programs and projects) work over the past three years served to further focus DPLF’s mission and laid the framework that will support our plans for the coming years.

DPLF carried out this work with the continued support of private individuals, foundations and government agencies. The board and staff are grateful to all who supported us and worked with us to further our vision of a Latin America where justice is a reality for all, and in particular for those most vulnerable in our societies.

Sincerely,



**Douglass Cassel**  
Foundation President



**Katya Salazar**  
Executive Director

# DPLF

## Mission

*The Due Process of Law Foundation (DPLF) is a private non-profit, non-governmental organization based in Washington, DC, whose mission is to strengthen the rule of law and promote respect for human rights in Latin America through applied research, strategic alliances, advocacy and outreach. Our vision is a Latin America in which civil society, using national and international legal instruments, participates fully in consolidation of the rule of law, and in which judicial institutions are independent, transparent, accessible and able to fulfill their role in strengthening democracy.*

*The organization was founded by the former members of the United Nations Truth Commission for El Salvador, and created with the understanding that human rights can only be guaranteed through the existence of strong and independent national judicial systems.*



Applied Research



Strategic Alliances



Advocacy



Outreach

## What we do

■ DPLF's well-founded research is a hallmark of our work. Since our inception, our publications have garnered attention and built DPLF's reputation as a trustworthy actor amongst civil society and government officials alike.

■ We value collaboration with local partners in Latin America to further the dialogue and positioning of justice and human rights issues on the regional agenda. Through our alliances, DPLF seeks to be a valued addition to the incredible work our local partners are doing in Latin America.

■ DPLF works closely with our local partners to raise the awareness of decision-makers both in the region and in Washington, DC about issues and situations of concern to DPLF, through private and public meetings, conferences, seminars and workshops, advocacy letters and media contacts.

■ DPLF works hard to place the information gleaned from our publications and our public statements in the hands of decision-makers and other key actor in the region and in Washington, DC through the strategic distribution of our publications, our Web site, our institutional magazine and media coverage.



## *Our focus areas*

### **Judicial Independence**

If judicial independence is considered a right of the individual and a duty of the judiciary, it is essential to provide citizens with the necessary tools to verify that the judicial system complies with its obligation to provide justice in an impartial and independent manner. Judicial independence and transparency, access to judicial information, the establishment of means to fight corruption from within and the ability for civil society to monitor from the outside, should be recognized as fundamental requirements in any judiciary that promotes the rule of law.

### **Human Rights and Extractive Industries**

In the last decade, the number and intensity of social conflicts in Latin America has significantly increased, threatening democratic governance and stability. While the cause of these conflicts varies, a significant portion of them, and some may argue the most explosive, are associated with natural resources extraction and management, a problem affecting the rule of law and governability in the region. One response to this problem is an increased use of the legal and institutional mechanisms available at the national and international levels to address conflicts related to extractive industries in Latin America and to promote State and corporate accountability.

### **Transitional Justice**

A fundamental step towards global democratization is the incorporation of nations into an international community that adheres to basic human rights principles. The use of international and inter-American norms, institutions and mechanisms to press for changes that would bring national judicial systems into compliance with international human rights standards helps move societies forward towards a full respect for the rule of law and human rights.

### **Inter-American Human Rights System**

While the system continues to face threats and is at times weakened by the lack of political will of member states, the Inter-American Human Rights System continues to offer a regionally respected and credible mechanism through which to address a number of regional human rights issues. The use of this system has helped uphold not only international human rights standards, but the rule of law in the Latin American region as well. DPLF advocates strengthening the system through promoting the use of existing mechanisms, when appropriate, and seeking support for the system from key decision-makers and other key actors.



# What we have accomplished

## PANAMA

### Unveiling a fictional presentation of justice in Panama

DPLF's concern over the judicial reality in Panama originated from our 2007 study on judicial corruption in Central America. Through our follow-up study titled *Entre la alarma y la expectativa: el reto de fortalecer la independencia judicial en Panama (Between Alarm and Expectations: the Challenge of Strengthening Judicial Independence in Panama)* and our close work with the Alianza Ciudadana Pro Justicia in Panama, DPLF continued focusing attention on the disconnect between the outside perception of the country's judicial system – based in large part on the Panamanian government's public discourse – and the reality. In August 2009, a mission of judicial independence experts traveled to Panama to observe the Panamanian Supreme Court justice selection process. The delegation, which included DPLF board member and Columbia University law professor Alejandro Garro, met with officials and civil society representatives to discuss the importance of a transparent selection process that includes participation from civil society. In addition to these meetings and extensive local media coverage, the delegation also met with the President of

Panama's Supreme Court (head of the judicial branch of government in Panama).

Then, in March 2010, after a number of additional interferences from the Executive Branch into the Judicial Branch, DPLF and our local partners requested a hearing before the Inter-American Commission of Human Rights (IACHR). The hearing and the follow-up public event held in Washington, DC, received extensive media coverage, particularly since it took place just as the US Congress was to approve a free trade agreement with Panama. The presence of representatives from the UN Commission for Human Rights, the Inter-American Development Bank, the World Bank and the US State Department at these events helped ensure dissemination of critical information.

The struggle to strengthen the rule of law in Panama still has a long way to go but, thanks in part to DPLF's involvement, Panama's judicial reality is now known and authorities in that country realize that they are under external, as well as internal, scrutiny.

## EL SALVADOR

### Advocating for Judicial Independence in El Salvador

In 2011, while working with our partners to highlight the situation of the El Salvador Supreme Court (whose Constitutional Chamber is an example and an inspiration for the rest of the region in terms of its independence) and the selection process of new Supreme Court judges in 2012, we were all surprised when the Salvadoran Congress approved a decree that severely limited the Constitutional Chamber by requiring decisions on the constitutionality of laws to be passed unanimously. No court in the world has this requirement because it makes it practically impossible to reach decisions. The decree was essentially passed in order to prevent the Constitutional Chamber from passing any more decisions that could 'inconvenience' the Executive or Legislative branches. Lawmakers indicated that they were also investigating how to impose a 'consultation mechanism' on the Chamber so it would have to consult with Congress before passing 'controversial decisions'. These occurrences showed clearly that the doctrine of separation of powers and several other good governance principles have not taken hold in El Salvador.

DPLF sent a letter expressing our deep concerns over the proposed measure directed to President Mauricio Funes and all members of the Salvadoran Congress and copied to key stakeholders, including the US State Department, a large number of embassies in El Salvador, the World Bank, the Inter-American Development Bank, the Inter-American Commission on Human Rights (IACHR), and to several UN offices such as the United National Development Programme and the Regional Office of the High Commissioner for Human Rights (based in Panama). The letter was signed by over 70 other Latin American organizations. Additionally, DPLF met with US policy makers in Congress and the State Department as well as IACHR personnel to share our concerns and to raise awareness of the dangerous implications of this initiative. Two weeks after our round of meetings with decision-makers, the Salvadoran Congress voted to repeal the decree.

## PERU

### Social Conflicts and Natural Resources: A Questions of Justice and Good Governance

Through our close partnership with colleagues in the field – in particular the southwest region of Peru – DPLF became aware and concerned with the number and intensity of social conflicts related to the extraction of natural resources and the impact on indigenous peoples rights. Civil society groups, especially those based in remote areas of the country, who usually requested our assistance and advice on cases of “traditional” human rights violations, such as torture and extrajudicial executions, were shifting their requests to cover violations of human rights committed either by the State or private companies in situations related to the exploitation of natural resources.

DPLF began speaking with civil society, the media, and government officials about the international legal framework which clearly describes the rights and duties of all actors involved in these conflicts – including third parties such as private companies. Before DPLF began speaking out, most affected groups in Peru, where there had been violent altercations such as the violence which erupted in the Amazo-

nian city of Bagua where 34 people died in clashes between armed police forces and indigenous communities, were barely aware of this framework. In May 2009, at the same time the events in Bagua where beginning to draw national and international attention, we held an event for our partner organizations in Cusco addressing, among other issues, the right to prior consultation.

Through a strategically coordinated set of activities that included thematic hearings before the Inter-American Commission on Human Rights (IACHR), reports and dedicated issues of our institutional magazine *AportesDPLF*, we continued to press for changes. In 2010, when the Peruvian congress drafted a bill on the right to consultation, DPLF submitted comments and carried out other advocacy and educational activities. Finally, in August 2011, the Law on the Right of Consultation of Indigenous Peoples was approved in Peru - a first ever in the region, and a model for similar initiatives in other countries in the region.

## Building a stronger Inter-American System for Human Rights

In early 2011, the Inter-American Commission on Human Rights (IACHR) of the Organization of American States (OAS) issued precautionary measures in favor of Brazilian indigenous peoples who were not consulted in a state decision to build a dam on their territory. This move provoked an angry reaction among some members of the OAS and resulted in a proposed “reflection” initiative on how the Inter-American Commission of Human Rights carries out its work. DPLF spearheaded the presentation of opinion documents designed to help guide the states’ reflections and worked in coordination with a group of organizations in the region to ensure that civil society’s voices were heard in this regional debate. DPLF was present at all of the meetings carried out by the working group and

met with various country representatives to explain civil society’s stance on a number of issues which were under discussion, and we were able to mitigate a number of initiatives which would have had detrimental effects on the regional human rights system. It is now clear that this “reflection” initiative was just the beginning of a process that presents real risks to the autonomy and mandate of the IACHR. Therefore, DPLF continues its advocacy work designed to give civil society a voice in this process and seek true strengthening of the system. At the urging of a number of colleagues associated with this initiative, DPLF decided to address the need to strengthen the inter-American system for human rights in a special edition of our institutional magazine, *AportesDPLF*.

# DPLF Publications

DPLF's applied research is a hallmark of our work. Since our inception, our publications have garnered attention and built DPLF's reputation as a trustworthy actor among civil society and government officials alike. Making the information compiled in our publications available to as broad an audience as possible is an integral part of DPLF's work. Furthermore, DPLF seeks to place our publications in the hands of those who would most benefit from the kind of information contained in the studies, including human rights

*"... DPLF has made possible a continuation of my university training with your production and publication of truly formative and informative manuals on indigenous rights"*

–**Efren Diego Domingo**, Maya Q'anjob'al, Guatemala

practitioners and government officials. In addition to distributing printed copies of our publications to key authorities and civil society representatives throughout the Latin American region, we upload all our publications to our Web site ([www.dplf.org](http://www.dplf.org)).

## Aportes DPLF

DPLF's institutional magazine *AportesDPLF*, now published in Spanish and English and distributed online and in print, is the only publication of its kind addressing regional justice issues.



### AportesDPLF #15 (September 2011)

Business and Human Rights:  
A Complex Relationship

*Empresas y derechos humanos:  
una relación compleja*

(Available in English & Spanish)

First bi-lingual edition of the magazine



### AportesDPLF #14 (September 2010)

Indigenous Peoples' Right to a Free, Prior and Informed Consultation

*El derecho a la consulta libre, previa e informada de los pueblos indígenas*



### AportesDPLF #13 (June 2010)

The Fight Against Impunity in Latin America

*El combate contra la impunidad en América Latina*



### AportesDPLF #12 (January 2010)

Envisioning Justice in Latin America

(First ever English language edition of AportesDPLF)



**AportesDPLF #11** (November 2009)  
Changes to Ecuadorian Justice  
*Cambios en la justicia ecuatoriana*



**AportesDPLF #10** (July 2009)  
The Judicial System in the New Bolivian Constitution  
*El sistema judicial en la nueva Constitución boliviana*

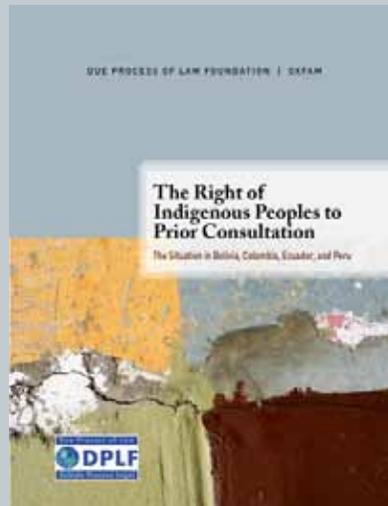


**AportesDPLF #9** (March 2009)  
Constitutional Reforms and the Judiciary  
*Reformas constitucionales y poder judicial*

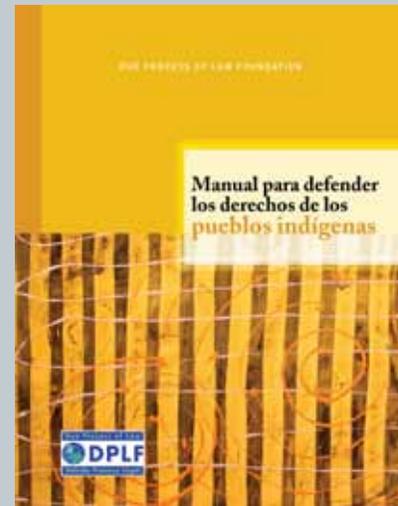
**DPLF Reports and Studies – 2011**



Handbook for Strengthening Judicial Independence and Transparency in Central America  
*Manual para el fortalecimiento de la independencia y la transparencia del Poder Judicial en América Central*

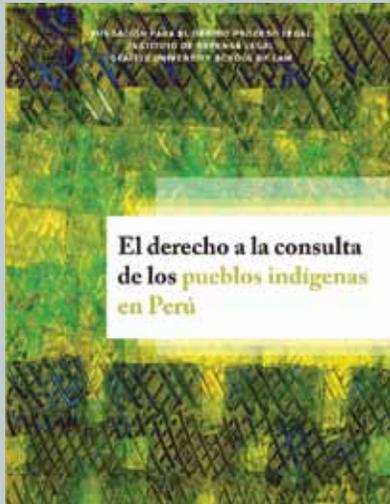


The Rights of Indigenous Peoples to Prior Consultation: The Situation in Bolivia, Colombia, Ecuador and Peru  
*El derecho a la consulta previa, libre e informada de los pueblos indígenas: La situación de Bolivia, Colombia, Ecuador y Perú*  
*(Executive summary available in English and Spanish)*



Guide for Defending the Rights of Indigenous Peoples  
*Manual para defender los derechos de los pueblos indígenas*

## DPLf Reports and Studies – 2010



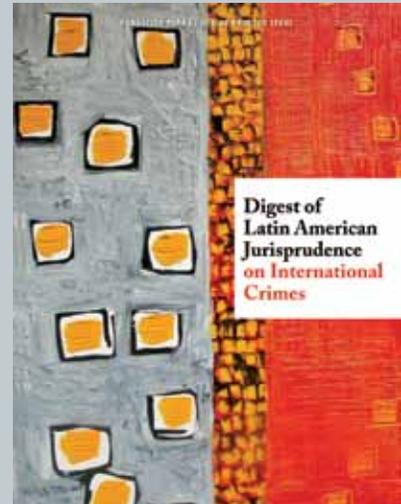
The Right to Consultation of  
Indigenous Peoples in Peru

*El Derecho a la consulta de los  
pueblos indígenas en Perú*



Victims and Transitional Justice: Are  
Latin American states complying with  
international standards?

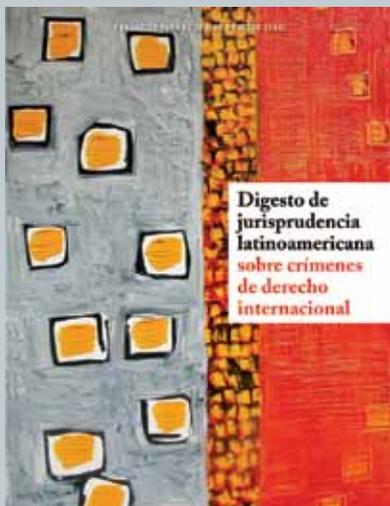
*Las víctimas y la justicia transicional  
¿están cumpliendo los Estados  
latinoamericanos con los estándares  
internacionales?*



English version of 2009 publication

Digest of Latin American  
jurisprudence on international crimes

## DPLf Reports and Studies – 2009



Digest of Latin American  
Jurisprudence on International Crimes

*Digesto de jurisprudencia  
latinoamericano sobre crímenes de  
derecho internacional*



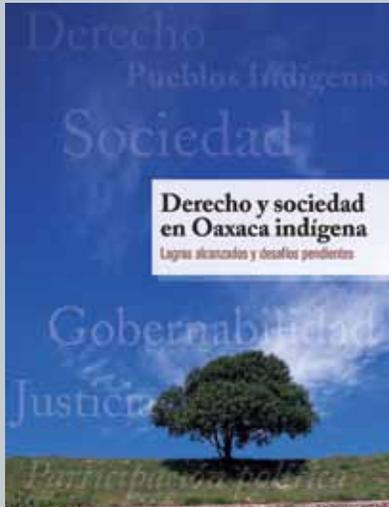
Between Alarm and Expectations: The  
Challenge of Strengthening Judicial  
Independence in Panama

*Entre la alarma y la expectativa: el reto  
de fortalecer la independencia judicial  
en Panamá*



*Judicial Independence in Oaxaca,  
Mexico: Fiction?*

*Independencia Judicial en Oaxaca,  
México: ¿Una ficción?*



Law and Society in Indigenous Oaxaca. Achievements and Pending Challenges

*Derecho y sociedad en Oaxaca indígena. Logros alcanzados y desafíos pendientes*



Criminalization of Human Rights Defenders and Social Protest in Mexico

*Criminalización de los defensores de derechos humanos y de la protesta social en México*



Judicial Independence in Venezuela: The Administration of Justice in the Bolivarian Republic of Venezuela as Observed Through One Case

*Independencia Judicial en Venezuela: La administración de justicia en la República Bolivariana de Venezuela analizada a partir de la observación de un juicio*

## Board of Directors 2009 - 2011

**Reinaldo Figueredo Planchart, Chairman of the Board**

Former Minister of Foreign Affairs of Venezuela

**Alejandro Garro, Vice Chairman of the Board**

Adjunct Professor of Law, Columbia University of Law

**Douglass Cassel, President of the Foundation**

Professor, Notre Dame Law School

**Christopher Jochnick**

Oxfam America

**Helen Mack**

President, Fundación Myrna Mack

**Alain Philippson**

Chairman, Banque Degroof, Belgium

**Jeremy Popkin**

University of Kentucky

**Susan Popkin**

Urban Institute

**Margaret Roggensack**

Human Rights First

**Ronald Scheman**

Former Director General of the Inter-American Agency for Cooperation and Development

## Officers

**Douglass Cassel**, President

**Susan Popkin**, Treasurer

**Katya Salazar**, Secretary & Executive Director

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**DPLF notes with great sadness the passing of**

**Dr. Jorge Carpizo,**

**a member of our board of directors since 1998.**

# Staff



**Katya Salazar**  
Executive Director



**Laura Park**  
Director of Finance  
and Administration



**Mirte Postema**  
Judicial Independence  
Senior Program Officer



**Carla Garcia-Zendejas**  
Human Rights and  
Extractive Industries  
Senior Program Officer



**Leonor Arteaga**  
Judicial Independence  
Program Officer (began  
January 2012)



**Stephanie Luckam**  
Operations Manager



**Maria Clara Galvis**  
Senior Legal Advisor



**Victoria Amato**  
Program Consultant



**Emilie Joly**  
Equal Access to Justice  
Program Coordinator  
(until April 2011)





## Those who support DPLF's work

DPLF is grateful for the generous support of individuals, private foundations and agencies that make our work possible. In addition to a steadfast group of individuals, DPLF's work is supported by:

Diakonia - Evangelical Church in Germany Social Service Agency (Diakonisches Werk)

Ford Foundation (New York)

John D. and Catherine T. MacArthur Foundation

John Merck Foundation

Misereor, The German Catholic Bishops' Organisation for Development Cooperation

National Endowment for Democracy

Open Society Foundations

Oxfam America

Seattle International Foundation

Swiss Department of Foreign Affairs

Tinker Foundation

United States Institute of Peace

USAID (subgrants from TIES Program/American University and Finjus – Dominican Republic)

World Bank

# Financial Statements

## DPLF statement of activities

	2009 Year ending 12/31/2009 (Audited)	2010 Year ending 12/31/2010	2011 Year ending 12/31/2011 (Audited)
<b>Revenue &amp; Support</b>			
Grant Income	244,565	920,240	802,650
Contract Income	98,132	30,970	89,311
Contributions	10,750	3,166	4,451
Other Income	92	188	1,178
<b>Total Revenue &amp; Support</b>	<b>\$353,539</b>	<b>\$954,564</b>	<b>\$897,590</b>
<b>Expenses</b>			
Program Services	551,247	501,114	588,584
Supporting Services			
General & Administrative	17,910	44,958	115,024
Fundraising	14,693	29,154	41,064
Total supporting services	32,603	74,112	156,088
<b>Total Expenses</b>	<b>\$583,850</b>	<b>\$575,226</b>	<b>\$744,672</b>
<b>DPLF Balance Sheet</b>			
<b>Assets</b>			
Cash and equivalents	322,050	467,682	588,659
Grants & Contributions receivable	4,000	242,206	250,827
Prepaid expenses & other assets	9,798	2,901	20,608
Property & Equipment			
Office furniture & equipment	13,074	20,475	20,067
Less accumulated depreciation	-11,728	-13,462	-5,358
Book value of property & equipment	1,346	7,013	14,709
<b>Total Assets</b>	<b>\$337,194</b>	<b>\$719,801</b>	<b>\$874,803</b>
<b>Liabilities &amp; Net Assets</b>			
<b>Current Liabilities</b>			
Accounts payable & deferred contract revenue	41,144	44,693	46,283
Other current liabilities	479	200	695
Total current liabilities	41,623	44,893	46,978
<b>Net Assets</b>			
Restricted net assets	281,573	634,871	759,232
Unrestricted net assets	13,998	40,037	68,593
Total net assets	295,571	674,908	827,825
<b>Total Liabilities &amp; Net Assets</b>	<b>\$337,194</b>	<b>\$719,801</b>	<b>\$874,803</b>



**Fundación para el Debido Proceso  
Due Process of Law Foundation**

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