La Voz de Esperanza

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• We advocate for a wide variety of social, economic & environmental justice issues.
• Opinions expressed in La Voz are not necessarily those of the Esperanza Center.

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Policy Statements

* We ask that articles be visionary, progressive, instructive & thoughtful. Submissions must be literate & critical; not sexist, racist, homophobic, violent, or oppressive & may be edited for length.

* All letters in response to Esperanza activities or articles in La Voz will be considered for publication. Letters with intent to slander individuals or groups will not be published.

The wrecking ball has done a job on our Mexican psyche in San Antonio, Texas and yet, here we are! It is this city that is the hope for the survival and flourishing of cultura, costumbres y lenguaje de Mexicanos and by extension, Indigenas and Latinos in the U.S. WE who have lived here hundreds of years—even before gente sin color set foot on the Americas—have been targeted by all types of wrecking balls.

The latest attempt to render us invisible was by SA's weekly rag, ***The Current***, that published *The Badass* issue in March, 2016, lauding "movers and shakers" who've played an important part in San Antonio's history. The "Badasses" seated at a table replete with Mexican food on the Current's front page did NOT have a single Mexican from San Antonio's ENTIRE HISTORY of being a MEXICAN CITY—worthy of having a seat at that table.

It is precisely because of occurrences like this that obliterate the presence of Mexicans in San Antonio that the Esperanza Peace and Justice Center focuses its work on the Westside of San Antonio where the barrio roots of this city originated. Our preservation efforts began in earnest in 2002 when ***La Gloria***, with its rooftop dance floor and beautiful arches was demolished—in spite of heroic community efforts to save it. Since then, the **Esperanza** with other organizations has redoubled efforts to preserve Westside landmarks including shotgun homes, tienditas and historic community sites.

In 2010 we joined in celebrating ***National Historic Preservation Month*** with our annual ***Paseo por el Westside***. We joined efforts to save the "*pink building*" across from the **Guadalupe Theater** and it (the *Maldonado* building) now stands as a testament to how preservation can work out in a barrio neighborhood. In 2013, however, the ***Univision*** building, birthplace of Spanish-language broadcasting, was knocked down to make room for more downtown apartments. Almost two years ago we joined others in turning back an effort to build a *Family Dollar* store on Guadalupe St. across from **J.T. Brackenridge Elementary**. And so the battle goes. The next building we're trying to save is the *Basila Frocks* building. (To sign a petition go to: http://bit.ly/BasilaFrocks)

Our work, however, goes beyond just saving buildings to preserving and reviving the traditions and customs of the Westside through programs such as Fotohistorias and at the annual (7th) ***Paseo por el Westside*** that will take place on Saturday May 3rd from 9 am to 3 pm. Once again, we will offer tours through the historic Westside and a full slate of workshops, demonstrations, games and performances at the Rinconcito de Esperanza at Guadalupe & S. Colorado Sts. where we document and work to preserve the history and life of Westside residents, because if we don't you can bet no one else will! Visit www.esperanzacenter.org for a schedule of 2016 Paseo por el Westside activities!

Among other offerings in this La Voz we continue with articles on The Fisher v. The University of Texas at Austin case (part II) and San Antonio's Hydrosocial Landscape (part II). Submit articles, poems and other literary contributions to: lavoz@esperanzacenter.org

— Gloria A. Ramírez, editor of La Voz

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VOZ VISION STATEMENT: La Voz de Esperanza speaks for many individual, progressive voices who are gente-based, multi-visioned and milagro-bound. We are diverse survivors of materialism, racism, misogyny, homophobia, classism, violence, earth-damage, speciesism and cultural and political oppression. We are recapturing the powers of alliance, activism and healthy conflict in order to achieve interdependent economic/spiritual healing and fuerza. La Voz is a resource for peace, justice, and human rights, providing a forum for criticism, information, education, humor and other creative works. La Voz provokes bold actions in response to local and global problems, with the knowledge that the many risks we take for the earth, our body, and the dignity of all people will result in profound change for the seven generations to come.

Supreme Court Crisis
Part 2 of 2

Why the next appointed Supreme Court Justice matters in Fisher v. University of Texas at Austin, et. al

Elva Pérez Treviño

Note: Part I of this article appeared in the April 2016 issue of La Voz. Part II begins with a discussion of racism in the U.S. and the social construct of race as a political tool of separation. The founding of these United States of America was by men of wealth whose world view was limited to one of Conqueror and the conquered. At its core it is a nation founded on the idea of racial superiority by white-skinned European men fleeing economic, social, political and religious persecution. They came to this land with the dream of manifest destiny and made the assumption that it was "empty" and lying "fallow".

To speak of race and racism is by necessity to speak of the concept of a racial superiority of intelligence, morals, values, and physical abilities simply based on physical feature and ancestry. Thus in the U.S. Constitution is enshrined the values, traditions, morals and priorities of white men setting up a government to function as they so ordained. This document then reflects what this community of men thought expedient and used it to construct government, its form and function, its laws. It gave definition to certain inalienable rights that all citizens possess as long as the U.S. constitution gave that individual a legally recognizable identity. It keeps political power where it was meant to reside. It still works this way.

To these men property became a powerful symbol of their basic human right. In the constitution they drafted to form a more perfect union they made property a boundary against state power. This boundary was to give definition to their concept of freedom and autonomy. Moreover, it was to give notice of a tension between an individual and a group, and securing property against majoritarian oppression, read tyranny of the many, was a central problem, it became an economic fear. They wanted to protect their property right; they wanted to actualize their manifest destiny. The framers failed to comprehend that protecting property rights is not the same as protecting individuals against the tyranny of the many. The focus of the constitution came to protect the vulnerability of proprietors. In this scheme, the judiciary functions as a protector of the status quo, i.e., it protects "constitutionally protected" rights. The colonists transformed their fear: the issue was cast as one of justice; the problem was cast as one of inequality and the solution was cast as one of liberty. Thus came into being a form of government that produces laws that protect those with property against those without property. Herein lies a major contradiction: there are big differences between saying rights are vulnerable to majority oppression and quite another to say an essential ingredient of a representative form of government is to protect rights that the many will never enjoy.

When the Supreme Court usurps the authority to interpret the U.S. Constitution, it does so within this historical, political context. Within this context the laws and legal process became the means by which generalized racism in society was made particular and converted into standards and policies of social control. Laws were enacted to relegate black people into a lifetime and hereditary condition of slavery. For the Indigenous American, government action and laws eliminated tribalism as incompatible with the values of white European America. All efforts were about eliminating a particular way of living and holding property. It was about privatizing land that white settlers wanted to claim as private property. For Mexicans it was about criminalizing a people. For the Japanese, subjected to interment in concentration camps during World War II, it was about who could claim being white-skinned and whether you can ever look "American" enough to be trusted to be a loyal citizen. For the Arabs race is about blood and tribe and terrorism, and if they can ever be trusted to walk freely in the streets of the United States of America.

Race is a social construct. There is no biological basis for race. There is neither gene nor cluster of genes that makes up "a race"; rather "race" comes into being as a result of relations between groups. It is based on the relationship we place on physical features, personal and cultural characteristics and skin color. Race permeates our society: it dominates our society, it dominates our personal lives, it determines our economic prospects, it screens us, it selects us, it alters, challenges, creates, collapses political alliances, it mediates every aspect of our lives.

Enter hundreds of years later, affirmative action programs meant to distribute the property right to education for many who had never enjoyed that freedom to learn, to know, to gain meaningful access and possess true power.

Having come to an understanding of how the Supreme Court works and how it does things in Part I, we come to their understanding and framing of the Fisher v. University of Texas at Austin et. al.

To initially exercise its judicial authority to hear a case, the Supreme Court must first have before it —"an alive and real" —"case and controversy"— meaning the case must exist at each stage of the review, not merely when the complaint is filed. The threat must be actual and imminent, not conjecture, not hypothetical because the relief sought must prevent or redress the injury alleged in the lawsuit. The case must be about a particularized injury in fact that is directly caused by the perpetrator's violation of a constitutional

or federal right, and it must be fairly traceable to the perpetrator's conduct. An exception can be made to this rule if the controversy itself is one that may recur but will not last long enough to work its way through the judicial system.

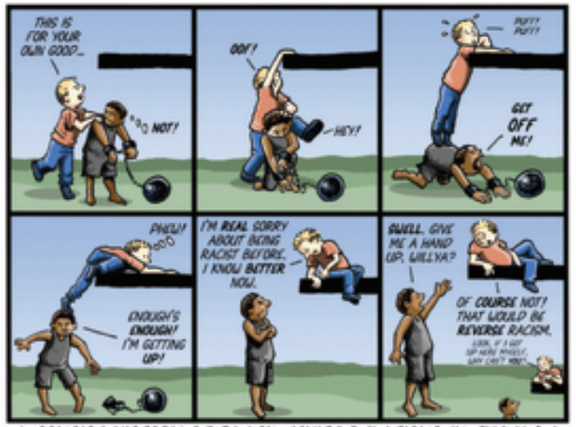
Looking closely at the Supreme Court's action in selecting Fisher for review, the first major set of problems is with the Supreme Court's effort to go forward with a case for which at the time it finally reached the Supreme Court was not a "live and real" controversy because the claims and issues raised by Fisher were moot, meaning they were dead issues. Whatever decision the Court makes will not remedy nor redress what Ms. Fisher claims is her injury.

The second set of problems with Fisher is that the Supreme Court assumed Abigail Fisher has been harmed by the university's policy in action, that the University of Texas' admissions policy, an affirmative action plan meant to increase student diversity, is unconstitutional, and finally, that this policy violates the Equal Protection Clause of the Fourteenth (14th) Amendment to the U.S. Constitution. I propose the reason the Supreme Court is able to go there is because of "white skin" privilege.

When I speak of "white skin privilege" I refer to that privilege and those social benefits that are a common experience of people whose appearance of skin-color identify them as "white people". It is a privilege that begets a world view that has a preference for "whiteness" and creates a significant advantage for white people because their skin color does not work against them. They enjoy a vertical and horizontal mobility in society in ways they have not earned and which non-whites do not automatically enjoy. It renders white people immune to a lot of social, political and economic challenges. It is a world view which breeds a certain "white mentality" limited to a time and history when the geography itself was limited to a European world view. It is a view that can be considered as marred by a possessive, fearful sense of superiority that grows out of a lack of exposure and experience to any society that does not reflect white people and their personal body politic. Today, it means that in many instances white people do not have to experience exclusion and most often feel entitled to determine who should be included, and under what terms and conditions. So when one views the composition of the Supreme Court you can understand why that is a "natural" viewpoint they would have. Natural in that social studies indicate that we tend to favor and give preference to people who look most like us, that identify most like us. Given these circumstances and this history, the reader can well surmise how the Supreme Court came to naturally presume Ms. Fisher was a victim of the university without more than her saying it was so.

It is those benefits enjoyed by white-skinned people beyond what is commonly the experience of non-whites under the same social and political conditions that lead to affirmative action policy meant to remedy past discrimination whose effects are still being experienced daily by non-white communities.

In historical context, affirmative action is meant to benefit "the other", those individuals traditionally excluded based on appearance, on ability, on perceived disability, on age and on skin color. A brief overview of affirmative action in education in this country will help discuss the Fisher case within the larger context of what affirmative action really means. In its true historical context and development it is an idea meant to expand the meaning of legal equality. It is meant to break down barriers for "minorities" and it runs counter to that cherished "American ideal" of the "American dream": that dream wherein resides the political lie that we can all make it if we only try hard enough.



A CONCISE HISTORY OF BLACK-WHITE RELATIONS IN THE U.S.A.

Artwork: Barry Deutsch

Let us follow the legal history concerning a "right to education" and how this accessibility to education looks in practice. In Brown v. Board of Education the Court determined that "separate but equal" is an inherently "unequal promise", however the Supreme Court refused to mandate remedies for the violations that segregation [in education] caused and would continue to cause. Finally, in 1971, the Supreme Court turned to the remedy for segregation. In Swann v. Charlotte-Mecklenburg Board of Education the Court ordered schools to produce racial balance, otherwise it would be embarrassing and undermining to the Court's decision that segregation is bad but not doing anything to promote integration in education.

In 1976 the Supreme Court modified its decision to promote integration in a case involving the Detroit schools that had been court ordered to desegregate its schools. When ordered to desegregate, white flight to suburbia had left the inner city schools totally segregated again, and the only way to achieve student body diversity, was for the suburban schools to be integrated with the inner city schools, but this time the Court said no.

Then came a series of cases initiated by "white" student applicants who felt denied admissions to the school of their choice due to affirmative action programs in effect at the various schools involved in these cases. When I use the term "white" I do not use the term in a pejorative, derogatory, nor disparaging way, and I do not mean the word to substitute for the classification of "Caucasian" because I want to address the underlying issue of "white skin privilege" that is present as an unexamined, unexplored, unacknowledged factor but which skews the whole perspective on where we are currently heading with affirmative action. This idea, that by including minorities in education by special numbers leads to reverse discrimination against "white students" seeking to fill the exact same admission slots now occupied by minority students has led to the magical thinking that "affirmative action" should now mean we protect "white students" against reverse racism. Here is the extension of that thought at play: schools can not consider race as a factor in evaluating "minority students" without running afoul of the law, and must at the same time, consider race for "white students" to check for reverse discrimination so that the perverse end result is that race becomes a factor the schools are forced to consider only within context of white student applicants. The norm becomes that affirmative action programs are automatically seen as possibly violating the Equal Protection Clause of the 14th Amendment to the U.S. Constitution if white students are adversely affected in any way by these programs meant to be inclusive of minorities, and are rendered as an exclusive means used by white students to challenge admissions policies.

This idea, that by including minorities in education by special numbers leads to reverse discrimination against "white students" seeking to fill the exact same admission slots now occupied by minority students has led to the magical thinking that "affirmative action" should now mean we protect "white students" against reverse racism.

In 1978, 1979 and 1980 the Court decided its first three cases on affirmative action as unlawful "reverse discrimination" and in each case the Court upheld the challenged program. Reverse discrimination as used here means intentional discrimination on the basis of race. This victim mentality requires identifiable victims and perpetrators. To insist that affirmative action programs amount to "reverse discrimination" against "white students" is to deny the historical and persistent discrimination that compelled the civil rights laws in the first place and ultimately led to the use of "race" in college and university admissions policies.

In 1978, in the case of Regents of California v. Bakke a "white man" challenged the admissions policy at the medical school. The case made racial quotas unconstitutional. Affirmative action programs were unfair and violated the Equal Protection Clause. The idea of reverse discrimination became popular. The case did allow for race to be considered among many factors to achieve student diversity.

Then came two "white women" challenging the admissions policy at the University of Michigan, undergraduate school and at the law school. In these 1995-1996 cases, the plaintiffs argued that their academic credentials and extra curricular activities should award them a spot at the university. They claimed that reverse discrimination against them resulted because of the university's affirmative action policy. In Gratz v. Billinger, decided in 2003, the Court held that the University of Michigan's point system for undergraduate admissions was unconstitutional because it violated the Equal Protection Clause under the 14th Amendment of the U.S. Constitution. In Gutter v. Bollinger the Court upheld the University of Michigan's right to use race as a component in their admissions policy. Justice O'Connor said that the U.S. Constitution did not prohibit a narrowly tailored use of race in admissions decisions to further a compelling interest in obtaining the educational benefits that flow from a diverse student body.

Keeping all of the above in mind, lets review Fisher v. University of Texas at Austin et. al. The case was decided by the Supreme Court in 2013 and sent to the Fifth Circuit Court of Appeals. From this second Fifth Circuit Court of Appeals decision Fisher appealed again, and her case got a second review by the Supreme Court in its session of December 2015, and which ruling is still pending as this article goes to press.

At the time Abigail Fisher filed the lawsuit against the University of Texas at Austin, the suit was based on the university's decision not to offer her an admissions slot in its Freshman Class of 2008. Ms. Fisher filed the lawsuit as a white female alleging that she had been denied equal protection under the law when the university implemented its admission policy in evaluating the applications of prospective students. She alleged as her injury: that she could not participate in the family legacy of attending the University of Texas at Austin as had her father and sister; that she had to attend an alternative university; that graduating from the university had more earning potential and real consequences down the road and that she would not get those benefits.

In her lawsuit, Ms. Fisher challenged the university's admission policy that consisted of two different plans and which in combination, met the law, were legal, and allowed the university to promote affirmative action in seeking to increase minority student participation in its incoming Freshman Class. The facts as presented indicate that Ms. Fisher did not appear to qualify for admission to the university under the school's universal 10% Plan which guarantees admission to the top 10% of every in-state graduating class. Nor did she appear to qualify under the university's "holistic" plan that selects prospective students based on academic and other accomplishments, among which many factors that can be considered is race. Once denied admission, Ms. Fisher sought redress against the university policy that rejected her application by filing a lawsuit and ultimately have the Court make the university change its admission's policy and ensuing criterion for admission. Her only remedy was to claim the university violated her constitutional right for equal protection under the Fourteenth Amendment to the U.S. Constitution. Ultimately, her claimed injuries involving perceived prestige and a hypothetical increased value of her resume and professional career were she to have graduated from the University of Texas at Austin, have led to

a case that may undo Affirmative Action admission programs. This case has the potential of making it unconstitutional for universities and colleges to take race into account in any way in choosing their entering class. Its impact on access to education will drastically reduce minority student enrollment, and who ultimately will suffer the most are those very communities from which these students come.

At the lower District Court, instead of having a full trial, the case was decided by summary judgment. This is a technicality by which the Court first reviewed Ms. Fisher's petition as filed by her seeking the Court's intervention, then second, reviewed the university's response, and based on the facts presented and the law in effect at the time, made its final determination of the merits of Ms. Fisher's claims. By Summary Judgment the trial said that there were no factual issues remaining to be tried, that all factual issues were settled, and that there was no need for a trial because the university's affirmative action admission's policy was constitutional and in compliance with the law. Thus, according to that District Court, Ms. Fisher's constitutional rights to equal protection under the law were not violated. She appealed to the Fifth Circuit Court of Appeals. That appeals court agreed with the district court that the university's admissions policy was constitutional. From there she appealed to the Supreme Court and her case was heard the first time in 2013. At that time, Ms. Fisher's claim before the Court was that the university's use of race in its' admission process violated the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution. And the basis of her appeal was that the Fifth Circuit Court of Appeals had failed to apply strict scrutiny in reviewing the trial district court's decision that the university policy was constitutional, legal and did not violate the law. What this meant was that Fisher, in alleging a violation of her Equal Protection right under the Fourteenth Amendment to the U.S. Constitution, the burden was on the university to prove that its use of its affirmative action admission policy was necessary. It needed to prove it had a compelling interest to increase minority student enrollment in this manner. Fisher's argument to the Supreme Court was that the Fifth Circuit Court failed to review the university policy to determine if it was the least restrictive means for the university to achieve this compelling interest. This second time of review, the Fifth Circuit Court of Appeals ruled that the university's use of race as a consideration in the admissions process was sufficiently narrowly tailored to legitimate interest in promoting education diversity and therefore satisfied strict scrutiny. On the second effort the Fifth Circuit added that the affirmative action program made limited use of race, that the plan serves the university's interest in a racially and culturally diverse student body in a way that obeys Supreme Court mandates. Fisher's second appeal argued to the Supreme Court that the Fifth Circuit court of Appeals did not apply strict scrutiny to the university's affirmative action plan as ordered by it, and further, that she is not asking it to overrule prior cases where it had favored use of race in college admissions. She simply says that the rationale for such programs may have to be reconsidered if the University of Texas' program is valid under the precedent set by these cases. She argues that the university's policy is unconstitutional racial stereotyping by treating black students who are eligible for automatic admission as if they are not well prepared to succeed at the university and to contribute positively to the goal of diversity.

White students talking about "qualified minorities" should be suspected for the racist thinking it hides. When discussing diversity and "qualified" is used next to the word "minority", then the true inference to be drawn is that the "minority" being considered is "unqualified". By implication, the issue raised is whether the "minority" in question got their position, etc., based on their race, and that now they have to be "qualified" because their abilities, qualifications, attributes are limited in some way. I submit Fisher's use of this argument is a ploy by Fisher meant to make her appear as much a victim, and the same type of victim as minority students, of the university's affirmative action policy to solidify what is otherwise a reverse-racism argument.

In Fisher, the Supreme Court stuck to the norm, that discrimination against white women is the same as discrimination as, for example, discrimination against black or brown women or black men. This attitude reflects an uncritical, disturbing acceptance of dominant ways of viewing the world of affirmative action.

Affirmative action policies for admission into higher education should lead to only one solution that is truly race neutral and racist free: free education for all.

Education should be free because as it stands now education is a property right not enjoyed by all in the United States of America. Education is not free, it is expensive and not everyone has access to it. Affirmative Action programs, though not going far enough, were meant to change this reality. College admissions affirmative action programs were designed to be inclusive of those students considered "minority" whatever the reason that customarily were not offered admission in college, or could not attend due to limited circumstance. That students who are traditionally accustomed to automatic inclusion feel discriminated against cannot be a legitimate rationale to the ranking of oppressions where the end result still reads "white makes right".

In an inclusive world view every individual has a right to education. They have a right to learn, to experience and understand the world around them. Everyone should have access to knowledge and history so they can fully engage in their political world. Everyone should have the opportunity to develop the character to defend principals and ideals they value. They should know why they go to war. They should know why and how they have been kept poor, ignorant, enslaved. Through education, every individual person comes to know his or her true worth to the world. Education should be a right to which everyone is entitled and it should not be private property to be held only by those of privilege.

Bio: Elva Pérez Treviño, an attorney-at-law, was born and grew up in the Westside of San Antonio. She is a graduate of the University of Texas @ Austin.

San Antonio's Hydrosocial Landscape

An interview with Gianna Rendón of the Esperanza Peace & Justice Center in San Antonio (part II of II)

Gianna Rendón, a community organizer at the *Esperanza Peace and Justice Center* in San Antonio, Texas and westsider was interviewed as part of the catalog for *Blue Star Ice Company*, an exhibition by *Works Progress Studio* and collaborators currently at the *Blue Star Contemporary Art Space*. The exhibit is open March 3-May 8. Gianna continues to work with the Mi Agua, Mi Vida coalition as the Vista Ridge pipeline drama continues. [See part I of *San Antonio's Hydrosocial Landscape* in the April, 2016 issue of *La Voz de Esperanza*].

Can you talk about the role that art and artists play in Esperanza's work?

...Esperanza likes to say that we do cultural organizing work, which is a combination of cultural programming and community based (political) organizing. Our cultural programming centers Latin@s, women, queer and working class people, as well as other marginalized people. We do this because mass media and mainstream art does not... It is also easier to reach people through art and culture than through politics...

...For example, our *En Aquellos Tiempos* project displays fotobanners around the Guadalupe area...photos from the people in that area. When I first saw some of the fancily dressed people I felt shocked since I didn't think people from our side of town could look that good, but then I felt pride. Art is also a natural way that marginalized people can express themselves/ourselves. A lot of times City Councils or legislatures won't listen to us or take us seriously, but maybe they'd listen to a song or a poem or a light bulb will go off during an exhibit.

Can you tell us about *Mi Agua Mi Vida*? When and why did the effort get started?

...so first I'm going to give you a straight answer and then give you the real answer. The straight answer: In summer of 2015 Dr. Meredith McGuire from the *Sierra Club* as well as a professor at Trinity University called up various environmental and social justice groups to fight against the Niagara water bottling company moving into San Antonio. After we found out that that plan was no longer a thing, we stuck together to organize around the Vista Ridge Pipeline, but more specifically, the SAWS rate structure and water rate increases that would pay for sewer lines as well as the Vista Ridge pipeline.

The real answer: There have been groups, including the *Esperanza Peace and Justice Center*, doing activism around water in San Antonio since at least the 1980s, ... many of the folks involved in *Mi Agua Mi Vida* were involved in the struggle around Applewhite I and II and PGA. Many of them were also involved in the brief struggle when the Vista Ridge Pipeline was pushed through City Council with one or two month's notice. So the struggle is old, but the name *Mi Agua Mi Vida* is new, to convey that the various environmental and social justice groups are united against the pipeline and rate increases that would harm specifically people of color, working class people, elders, women and children the most. Also the name *"Mi Agua Mi Vida"* means *"My Water My Life"* and is an extension of the slogan used during the PGA struggle *"Agua Es Vida,"* or *"Water is Life."*

We wanted to convey that the water that San Antonio Water System (SAWS) and San Antonio City Council want to gamble on belongs to the people... San Antonio residents as well as the people who live by the Carrizo Aquifer and along the pipeline route. I think the slogan also changes the conversation from the stereotypical view of white hippies trying to save the planet to gente/raza who speak Spanish, are brown and aren't often associated with environmental work.

In the Westside of San Antonio a big deal was the lack of running water and indoor plumbing. We've spoken to elders who remember not getting running water in their house until the 1940s... Children would catch waterborne diseases because there wasn't indoor plumbing and would often die young. Health advocates eventually made sure indoor plumbing was a priority.

Water and food are often things that governments use to oppress groups of people all around the world. People need to know that this is still happening. Flint, Michigan is probably the most prominent example. On a separate note, the real problem that caused lead poisoning was not aging infrastructure, but the privatization of water. In that way, Flint and Detroit and