My dissertation, entitled *American Law Comes to the Border: Law and Colonization on the Edge of the U.S./Mexico Divide, 1848-1890*, explores the history of law along the United States-Mexico border in the mid- to late-nineteenth century. It investigates not only the institutional development of the legal system along the border, but also the shifts in the legal consciousness of local residents, who had to adjust to a new set of legal values, customs, and procedures after American occupation. The dissertation focuses in particular on two communities that straddle the border and have been pivotal to its development: El Paso, Texas, and Ciudad Juárez, Mexico. I argue that residents in the El Paso area – Mexican, Mexican American, and American – shared in developing a hybrid legal system that brought together Spanish and English languages, as well as doctrines and procedures from both civil and common law systems, in the local justice system. This hybrid regime persisted until the coming of the railroads in the 1880s and the concomitant growth of Anglo-American settlement. While the hybrid era witnessed a surprising amount of cooperation between Americans and Mexicans in dispensing justice, the end of the nineteenth century would see the increasing legal marginalization of citizens of Mexican descent. By focusing on the “in between” years, from the 1850s to the 1890s, the dissertation elucidates many of the key legal issues of the nineteenth-century borderlands more generally. At the same time, it explores the personal relations, racial and ethnic allegiances, and ideological perspectives that shaped the local legal culture in this particular community. By looking at court records, government documents, and personal manuscripts, the dissertation crafts a social history of law on the international, regional, and local levels.

The southwestern border in the mid- to late-nineteenth century was a complicated place, with shifting notions of national and state allegiance, individual citizenship, and property ownership. My first chapter, entitled “Jurisdiction, Citizenship, and Legal Development,” provides an introduction to the border in the nineteenth century. It argues that the law was one of the most important forces in defining and transforming both national borders and individual lives in this period. The chapter first traces the lineage of Spanish and Mexican laws that governed the area before the Mexican American War. It then explains how an Anglo American system was established by residents after the War, and how this system persisted in a hybrid form – influenced by the previous Mexican regime – for several decades. In addition to tracing institutional development, the chapter explores the ramifications of legal change for the lives of individual residents of the border, who experienced these dramatic shifts in jurisdiction first hand. County Commissioner Gregorio Nacianceno García, for example, lived in five different countries over the course of his life – Spain, Mexico, the Republic of Texas, the United States, the Confederate States of America, and the United States again – and yet never moved from his house along the Rio Grande. Changes in the law, this chapter will argue, had the potential to alter not only residents’ national allegiances and economic fortunes but also their relationships to others in the community.

Chapter Two delves into the establishment of an Anglo American legal system after 1850. Entitled “Mexicanos and Americanos in the Criminal Court,” this chapter uses the criminal justice system as a case study, looking in particular at the participation
of Mexicans and Mexican Americans in the system after American occupation. It looks both at quantitative data about the number of crimes and criminal defendants in the system as well as at qualitative data gleaned from individual case files. The chapter argues that, unlike other western towns in this period, El Paso experienced a relatively long period of legal “power-sharing,” during which persons of both European and Mexican descent shared in the administration of criminal justice. For example, men with Spanish surnames made up an average of 95% of grand and petit jurors in the 1860s and 1870s, ensuring the continual use of Spanish in the courtroom and guarding against the discriminatory treatment of Mexican Americans. The cooperation of natives and newcomers in dispensing justice raises key questions about the role of law in colonization and occupation, as well as about the development of racial/ethnic biases in the system as a whole. While this power-sharing regime was eventually replaced by a more formalized, Anglo-dominated legal system, the era was pivotal in establishing the conditions for continued exchange in the 1880s, 1890s and beyond.

Chapter Three, entitled “International Law on the Line: Formal Interactions and Informal Negotiations,” focuses on the lawyers, judges, juezes de paz, and political officials in both Texas and Chihuahua who were responsible for crafting formal relationships between the legal regimes in the United States and Mexico. It seeks to provide a grounded discussion of the practical challenges to international law in this period. More specifically, it focuses on disputes arising out of attempts on both sides to extradite criminals, prohibit passage of goods and persons, and define the borderline itself. In the process, this chapter draws out the larger preoccupation of both the Mexican and the American governments with nationalism and border control.

While my first three chapters focus primarily on formal legal institutions established on the border, Chapter Four shifts the lens to informal and extralegal forms of dispute resolution. Entitled “Resistance, Legality, and the El Paso Salt War of 1877,” this chapter explores the various forms of resistance that border residents developed in response to the increasing imposition of formalized Anglo American law. It focuses in particular on the El Paso Salt War of 1877, a pivotal event in the area’s history that began when an Anglo-American lawyer attempted to make a private claim to salt beds near El Paso that had been used communally by the local mexicano population for generations. At first glance, the El Paso Salt War appears to be an all too familiar chapter in the history of law in the West: a contest over natural resources pitting native residents against eager newcomers and resulting, inescapably, in violence. A closer reading shows that the contest was not only over salt but also over the meanings of law. Those resisting the privatization of the salt beds did so not to spite the law, but to support a particular interpretation of it, which had a basis in Spanish and Mexican law. This chapter thus elucidates both the contest over privatization of property – a major theme in the colonization of the borderlands – as well as the attitudes of local residents towards American law.

Finally, Chapter Five – “The Shift from Frontier to Border” – will draw these themes of law, colonization, race, and resistance together. Each of the elements explored in previous chapters – the rise and fall of a hybrid legal regime, the interactions between Anglos and mexicanos in the courtroom, the formal and informal relationships between the two legal systems, and the development of resistance to Anglo American law – relate to larger themes in this period of nationalism, xenophobia, and racial intolerance. This
concluding chapter looks forward into the late-nineteenth and early-twentieth centuries, when the border began to lose its fluidity due to increasing legalization.

This dissertation seeks to make an important contribution both to legal studies and to historical studies. Within legal studies, this project provides a concrete example of the role of law in the process of colonization. It also explores the myriad ways that ordinary people interact with the law in a time of major change. Finally, it offers a localized study of the functioning of international law. Few studies of international law have addressed its application and adaptation on a local level in this way. Within the field of United States history, the southwestern border region has received relatively little attention. There have been a number of studies on law in the border region, but these are mostly focused on the pre-1848 period, when the region was under the control of Spain and then Mexico. There have been far fewer studies of the American period, particularly of the years immediately following American occupation. I am hopeful that my project can shed more light on this important time of transition.