

**Early Distillation
Ordinances for the Native Settlements of the Kingdom of New Galicia
by Santiago del Riego
Judge of the Royal Court of New Galicia
Submitted to King Philip II
and His Council of the Indies
November 1576**

Miguel Claudio Jiménez Vizcarra

Guadalajara

2018

Early Distillation
Ordinances for the Native Settlements of the Kingdom of New Galicia
by Santiago del Riego
Judge of the Royal Court of New Galicia
Submitted to King Philip II
and His Council of the Indies
November 1576

Guadalajara, August 2018

Preface

In an article entitled “Origin and Development of the Agro-Industry of Mezcal Spirits Called Tequila,”¹ I establish that this distilled beverage was first produced by the natives, and that Marquises of Altamira Pedro Sánchez de Tagle and Juan Rodríguez de Albuérne have been falsely accredited with the invention of mezcal and with the farming of a maguey variety in the valley of Tequila for this purpose. I also argue that they have been erroneously credited with its production—along with other spirits—in the seventeenth century at Hacienda de Cuisillos located in the region of Ameca. This claim is blatantly untrue since these men did not arrive in New Spain in the 1600s, nor were they owners of this hacienda during that period.

In the abovementioned article, I assert that mezcal was being sold at *estancos* (liquor outlets) as early as 1637. Namely, as of that year, it was being sold through these outlets in the city of Guadalajara, as authorized by the president of the Audiencia (Royal Court) of New Galicia, Juan de Canseco y Quiñones. Mezcal was auctioned off to the highest bidder and the earnings went toward the needs of the city, as evinced in the documents outlining the *visita* (or royal inspection) by Pedro Fernández de Baeza, then governor of New Galicia, in 1650.

There is an interesting reference made in the 1541 manuscript entitled “A Written Account of the Journey by Don Francisco de Sandoval Acaziti,”² which I refer to in both “Origin and Development of the Agro-Industry of Mezcal Spirits Called Tequila” and “The Mixton War: A New Perspective.”³ In his chronicle, the chief of Tlalmanalco describes how “the conquistadores destroyed the magueys of the vanquished,” mentioning three places in which this took place: Apozolco, Juchipila and Xalpa (sic). Given the length of time it took to destroy the maguey fields, these crops would have been considerable. Equally noteworthy is the way in which the chief details their destruction and the time dedicated to it—an indication of how much value the natives placed on the maguey plant.

In 1673, a royal decree was issued by Queen Mariana of Austria authorizing the commercialization of mezcal through liquor outlets in Guadalajara. Similar to earlier that century, the product was auctioned off at these outlets to the highest bidder, and the profits

¹ Trans. Dr. Michael Mathes. Guadalajara: Benemérita Sociedad de Geografía y Estadística del Estado de Jalisco, 2008.

² “Relación de la jornada que hizo don Francisco de Sandoval Acaziti, cacique y señor natural que fue del pueblo de Tlalmanalco, provincia de Chalco, con el señor visorrey don Antonio de Mendoza cuando fue a la conquista y pacificación de los indios chichimecas de Xuchipila,” published in Joaquín García de Icazbalceta, *Colección de documentos para la historia de México*, 1866.

³ “La Guerra del Mixtón: Una nueva perspectiva.” Guadalajara: Benemérita Sociedad de Geografía y Estadística del Estado de Jalisco, 2008.

were to go specifically toward the introduction of piped water into the city. It was also acknowledged in this decree that mezcal was not subject to the *alcabala* (a sales tax), an important note to underline because only items produced by the natives were exempt from this tax.

I also highlight in the article that despite the ban on production and commercialization of mezcal in New Spain, it was never banned in New Galicia. At that time, these regions were two distinct government jurisdictions and completely independent from one another. Not only was mezcal legal in New Galicia, it was sold throughout the region, and therefore, claims that the first permit to produce mezcal was awarded to a *criollo* (José María Guadalupe de Cuervo) in the town of Tequila in 1785 or 1795, once the supposed ban was lifted, are simply untrue. In fact, it was as of the year 1768 that anyone, not only the natives, was permitted to grow magueys and produce mezcal. Moreover, a tax was imposed on the production of mezcal, known as the *derecho de cribas* (or filter tax), which consisted of four *reales* per fermentation tank.

It was not until 1811 that Viceroy Francisco Xavier Venegas ordained the dissolution of *asientos* (official production sites) and allowed anyone to produce mezcal anywhere within the viceroyalty, thus lifting the ban, which had been the cause of much turmoil in New Spain.

As confirmed in my article:

What has been stated thus far makes it possible to conclude that mezcal was an Indian beverage, that they had domesticated the mezcal plant for a special purpose, and that they knew how to distill mezcal juice prior to the conquest, having only exchanged the clay pots in which they distilled it for a metal still that was called a *fondo*. Although dealing with one of the prohibited or counterindicated beverages, permission to manufacture it and sell it freely under the name of mezcal had been obtained from the authorities, with the very functionaries of the Royal Court granting it. The Indians remained exempt from all taxes, including sales tax, as was all produce of the land, and its sale was authorized to *criollos* and Spaniards through *estancos* and concession contracts, first in Guadalajara, and later only in the jurisdiction of New Galicia, indicating the clearly regional origin of the beverage.

My stance has been criticized by several archeologists and historians, who believe that the natives of the pre-Hispanic era would not have been able to develop distillation systems, asserting that “early distillation”—that is, prior to the arrival of the Europeans—is an impossibility. Without conclusive evidence to support their arguments, they attribute the know-how and practice of distillation, along with the required instruments, to the advent of the “Filipino distiller,” which they claim was brought by European explorers upon their return from the Philippines. They hence label this beverage a “mestizo” product.

In response to these claims, I wrote an article in 2013 entitled “Mezcal, Tequila and the Controversy Surrounding Pre-Hispanic Distillation.”⁴ As I explain, the detractors fail to consider—or perhaps are unaware—that the initial expedition of the Manila Galleons (led by Miguel López de Legazpi) to depart from Mexico to the Philippines left in 1564, and did not return until October of 1565. Meanwhile, Francisco de Sandoval Acaztili and Guillermo de Santa María—in their respective texts on the Mixton War, the uprisings of the indigenous groups commonly referred to as the Chichimecas, which took place in 1541 in western

⁴ “El vino mezcal, tequila y la polémica sobre la destilación prehispánica.” Benemérita Sociedad de Geografía y Estadística del Estado de Jalisco, Guadalajara, 2013.

Mexico—talk about magueys, mezcals and other spirits made from maguey, well over twenty years before the first Manila Galleons set sail. In view of this chronological discrepancy, the theory that the distillation system used in the region originated in the Philippines has absolutely no foundation.

The coconut is indeed from Asia, and in order for there to have been “coconut spirits” in New Spain—which we do know existed in Colima—coconut trees had to have been brought from the Eastern to the Western Hemisphere, then subsequently planted and grown. The assumption here is that Filipino distillation experts arrived on the shores of New Spain along with these plants. It is important to note that coconut trees take from five to six years to bear their first fruits and reach peak production after ten or twelve. The Manila Galleon made its first round trip to Acapulco in 1565, but it was not until about 1570 that the annual run was finally established—the Galleon was spotted in Colima in the month of November of that year. There is no doubt in my mind that the Filipinos would have arrived in Acapulco, and from there, they would have headed toward Mexico City. It is even more likely that they would have disembarked in Santiago (today, Colima) if they were smuggling goods, but I doubt they would have lugged distillation equipment. I am also skeptical that they would have transported these systems all the way to Apozol, Tlaltenango or Xala (sic), and then proceeded to teach the Filipino distillation method to the natives of the region. I welcome my opposers to address these challenges to their Filipino theories and to convince me otherwise.

I have come across an interesting detail about the coconut palm in the writings of Claudia Paulina Machuca Chávez, in an article entitled “The Mayor of the Chinese in the Province of Colima during the Seventeenth Century: A System of Representation Surrounding Trade.”⁵ She highlights that Spanish explorer Álvaro de Mendaña docked on the coast of Colima on January 22, 1569 and remained in the port of Colima for a little over a month. During his stay, he unloaded various types of products, including coconut seeds.

What we know for sure regarding the existence of coconut trees in Colima can be found in a text entitled “Evidence from the City of Colima in its Defense Against a Warrant Issued by the Royal Court of Mexico Ordaining the Clear-Cutting of Palm Trees in Colima in 1612,”⁶ which states: “Coconut spirits were not a cause of death among the Indians, because they themselves produce their own alcohol for their drinking binges, using sugarcane, magueys, plums, corn and roots.” This supports my viewpoint: distillation methods existed in pre-Hispanic times, and were unrelated to Filipino distillation techniques. In ensuing sections, I present further evidence in support of my position and I challenge the idea that mezcal is mestizo.

⁵ “El alcalde de los chinos en la provincia de Colima durante el siglo XVII: Un sistema de representación en torno a un oficio,” *Letras Históricas*, No. 1, 2009.

⁶ Sevilla del Río, Felipe. “Provança de la villa de Colima en su defensa ante un mandamiento de la Real Audiencia de México que ordenaba la tala total de los palmares colimenses. Año de 1612.” Mexico City: Jus, 1977.

Archeology

The misguided stance of archeologists and historians is fiercely challenged by the findings laid out in “Distillation in Western Mesoamerica before European Contact,”⁷ co-written by researchers Patricia Colunga García-Marín, Daniel Zizumbo Villareal and Fernando González Zozaya. In this article, the authors maintain that distillation was already in existence in pre-Hispanic times based on pottery unearthed in ancient tombs located in Colima, which, as anthropologist Isabel Kelly uncovered, belonged to the Capacha peoples who had settled in the region. Historian and biochemist Joseph Needham proposed a theory that the gourd- and trifold-shaped Capacha vessels were used for distillation based on their similarity to ancient Mongolian distillation systems. An experiment was conducted by distilling fermented mezcal juice using replicas of each of these types of Capacha pottery. The results were as follows: a 20-proof mezcal was obtained using the gourd vessels and a 32-proof mezcal was produced with the trifold pottery.

In support of the pre-Hispanic distillation theory, María del Carmen Serra Puche and Jesús Carlos Lazcano Arce wrote an article entitled “Daily Life in Xochitecatl-Cacaxtla,” in which they state that: “Based on our ethnoarcheological and physicochemical findings, we were able to establish that around 400 BCE, the settlers of Xochitecatl-Cacaxtla knew how to ferment and distill mezcal, which was used as a ritual beverage.”⁸

During the Seventh International Tequila Conference, which took place on December 3, 2013,⁹ Patrick McGovern from the University of Pennsylvania Museum in Philadelphia was asked to oversee a project to determine whether Capacha pottery contained mezcal residue. Under this premise, McGovern accepted the invitation. Some three days later, on December 6, a contract was signed between the National Institute of Anthropology and History and the University of Pennsylvania Museum, stipulating that McGovern was to conduct a research project to determine whether Capacha pottery did indeed contain the residue and the pieces to be studied were then sent to Pennsylvania for testing. Unfortunately, before submitting their results and returning the materials that are only on loan, the University of Pennsylvania has not responded to the Mexican institution’s inquiries about the results of the tests and thus seems to be withholding information, to Mexico’s disservice.

⁷ Published in *Economy Botany*, Vol. 63, No. 4, December 31, 2009, pp. 413-426.

⁸ “La vida cotidiana en Xochitecatl-Cacaxtla,” in *Arqueología Mexicana*, September-October 2011.

⁹ Held at the Benemérita Sociedad de Geografía y Estadística del Estado de Jalisco in Guadalajara.

Evidence from New Galicia
Testimonies in Support of Viceroy Antonio de Mendoza's Defense
upon the Royal Inspection Conducted by Francisco Tello de Sandoval
1546-1547

Francisco Tello de Sandoval, a member of the Council of the Indies and former Toledo inquisitor, was sent to New Spain to conduct a *visita* (an inspection) of the Royal Court of Mexico and of the activities of its president and judges. As a result of the inspection, Antonio de Mendoza—who acted as the viceroy, governor of New Spain and president of the Royal Court—was charged with forty-four allegations, but was given the opportunity to build arguments in his defense. Accordingly, Mendoza presented his arguments on June 21, 1546, and requested to be absolved from the accusations based on the statements made by witnesses from various regions of New Spain. The interrogation of the witnesses was published by Joaquín García Icazbalceta in 1866 in his *Collection of Documents for the History of Mexico*,¹⁰ consisting of 303 questions, which were also published in *The Viceroys of Spain in America During the Reign of the Habsburg Dynasty, Mexico*.¹¹ It is important to mention that editor Lewis Hanke added six questions to the list, rendering a total of 309 questions.

The interviews were carried out between 1546 and 1547 in New Galicia, and among the witnesses was Francisco Delgadillo, who submitted his statement in January of 1547. Born in the district of Val de Santo Domingo in Toledo, located in the Kingdom of Castile, he was approximately thirty-four years of age at the time and had resided in New Spain and New Galicia for approximately eighteen years, and was a resident of the city of Guadalajara at that moment. The following is the statement made by Delgadillo during his testimony in reference to the uprisings in New Galicia, which had occurred in 1541 and 1542. The statement is in response to question number 132 of the questionnaire:

132. Do you know, believe, have you seen or heard, etcetera, that approximately six years ago a group of Indians from the mountainous region of Zacatecas, who practiced witchcraft, arrived to the towns of Tlaltenango and Juchipila and other towns of New Galicia, and subverted and tricked the locals of these towns, making them believe that they had resurrected their grandparents and the rest of their ancestors, and they claimed that they had been forced to slaughter the Christians residing in the region, the bodies of whom were then sent to Mexico City. They were forced to overthrow the province and there was no need to plant seeds because they would create their own maize and other seeds through the use of witchcraft. They taught the locals countless elements of black magic and other follies, which agitated the townspeople, who rose up and began to practice infidel idolatry and rituals, as witnesses have reported.

Delgadillo recounts that upon arriving to Tlaltenango:

They stumbled upon the said Indians, who danced with the joyous cadence of their native language. They discovered countless jugs of alcohol, which the Indians drank in celebration of the *tlatol*. Upon seeing the witness [Delgadillo] and other Spaniards, the dancing promptly stopped and the Indians fled the scene. The

¹⁰ *Colección de documentos para la historia de México*, Vol. II, *op. cit.*

¹¹ *Los Virreyes Españoles en América durante el gobierno de la casa de Austria: México*, Vol. I, edited by Lewis Hanke in collaboration with Celso Rodríguez, and published by Atlas, Biblioteca de Autores Españoles, Madrid, 1976.

Spaniards did not chase after them or take measures to apprehend them because they lacked the legal authority to pursue or punish.

From this statement, we can conclude that in 1541, the indigenous people of New Galicia had jugs of an alcoholic beverage, which they drank in large quantities during their festivities.

**Royal Inspection by Santiago del Riego
Judge of the Royal Court of New Galicia
1576**

It was my good friend Asma Bouras who introduced me to Santiago del Riego, judge of the Royal Court of New Galicia, and to the commentaries he made to King Philip II, which include the topic of spirits made from maguey by the natives of New Galicia, in a letter he wrote dated November 9, 1576. Up until then, my knowledge of Santiago del Riego was limited to his marriage to Ana de Mendoza, daughter of Juan de Zaldívar Oñate and Marina de Mendoza. I was taken aback by this new information and asked her for the reference, which is the evidence I shall present now. Principally, this historical document calls into question the idea held by archeologists and historians that mezcal is mestizo, when in fact it is purely indigenous and existed prior to the arrival of the Spaniards.

Let us begin by looking at some of the references made to Santiago del Riego in current literature. He has been referred to by several authors, including John H. Parry in his book entitled *The Audiencia of New Galicia in the Sixteenth Century: A Study in Spanish Colonial Government*;¹² Peter J. Bakewell in *Silver Mining and Society in Colonial Mexico: Zacatecas, 1546-1700*;¹³ and José Francisco Román Gutiérrez in *Society and the Evangelization of New Galicia during the Sixteenth Century*.¹⁴ With regard to policies adopted by Viceroy Martín Enríquez during the Chichimeca War, which began eight years after the Mixton War, see Antonio Francisco García-Abásolo González, *Martín Enríquez and the Reform of 1568 in New Spain*.¹⁵ To gain a broader perspective of the series of activities that Riego undertook in response to the Chichimeca War, I recommend consulting García-Abásolo González, "Report of a Royal Inspection in New Galicia in 1576,"¹⁶ where we find the following description:

Santiago del Riego issued decrees to ensure the good governance of the indigenous peoples. The contents of these decrees are better understood if we take into account the delays brought on by the opposition of the nomadic Indians to the colonization of New Galicia. These decrees are very general: they address the proper treatment of the Indians by their governors, mayors and chief magistrates, the reduction of sanctions in the application of the law, the provision of appropriate standards for the appraisal of tributes, incentives for farming through the distribution of land and protection for indigenous corn farmers in their dealings with Spanish merchants. According to his decrees, governors are to ensure that each *macehual* [commoner] plants at least four sacks of corn per year, and six if he relies on the help of his sons.

¹² Cambridge University Press, 1948.

¹³ Cambridge University Press, 1971. Specifically on p. 75: "AGI. Patronato 238, R. 2, No. 3. 'Ordinances issued by Santiago del Riego, judge of the Royal Court of the Kingdom of New Galicia for the regulation of the mines of Zacatecas and Panuco,' Zacatecas, August 10, 1576 (undated)."

¹⁴ *Sociedad y Evangelización en Nueva Galicia durante el siglo XVI*. Zapopan, Jalisco: El Colegio de Jalisco, 1993. In particular, p. 322: "AGI. Patronato Real 182, R. 52, Santiago del Riego to Viceroy Martín Enríquez, Zacatecas, September 5, 1576."

¹⁵ *Martín Enríquez y la reforma de 1568 en Nueva España*. Seville: Publicaciones de la Diputación Provincial de Sevilla, 1983, pp. 341-371.

¹⁶ "Resultados de una visita a Nueva Galicia en 1576," *Anuario de Estudios Americanos*, Vol. XXXVI, Seville: Escuela de Estudios Hispano-Americanos, 1979, pp. 16-24.

Within this same source,¹⁷ we find the following note: “Ordinances for the Native Settlements of the Kingdom of New Galicia, undated, though they are in fact from 1576.”

None of these authors, however, mention the letter written by Santiago del Riego to King Philip II and the Council of the Indies on November 9, 1576. And although García-Abásolo highlights that Riego formulated a number of ordinances on the subject of good governance of native villages, the author presents these decrees in a very general way. Moreover, many of these authors deem these documents undated and García-Abásolo fails to transcribe them or include the source.

What we do know is that Santiago del Riego was commissioned in 1576 to conduct a royal inspection in New Galicia. According to genealogists, he was born in Valladolid in 1535, which means that for this “visit,” he would have been approximately forty-one years of age.

It is quite apparent that the academic community has paid little attention to Riego’s trip to New Galicia, perhaps because the motivation behind his travels was different than what he had communicated to the king. In his letter written on November 9, 1576, Riego stresses to King Philip II the importance of creating regulations for the native settlements of the Kingdom of New Galicia, accompanying the letter with a series of proposals. In his article, García-Abásolo asserts that these proposed ordinances, sent to both the king and to the Council of the Indies, were undated. But the truth is, they were: the date is inscribed on the accompanying letter. What García-Abásolo fails to catch is that these decrees were simply not executed. What’s more, we have no way of knowing what the king and his council had decided to do with regard to these decrees. What we do know is that the king apparently did not respond to or approve Riego’s recommendations.

According to proper procedure, the Royal Court would have been the first to receive these proposals. Perhaps from the outset, the Royal Court of New Galicia was never made aware of these ordinances. There is also the possibility that the Royal Court revoked his proposals, in which case, Riego could have decided to take it up with the king and his council directly, and thus submitted his proposals, along with the attached letter dated November 1576, to them for approval. It would appear, however, that the king and his council did not take into account the proposed regulations either, given that there is no record that the king or his council ever responded to the proposal, much less offered their approval.

What we know for sure is that Riego’s ordinances were never implemented. Despite this, these regulations are fairly simple to find: available on the Portal de Archivos Españoles,¹⁸ accompanied by the letter issued by Santiago del Riego and addressed to King Philip II and his Council of the Indies, dated November 9, 1576.

If we examine these documents, we quickly discern Riego’s keen observational skills, legal sensibility and awareness of the realities around him. Generally speaking, these regulations have a universal quality and target—not one in particular, but all indigenous settlements of New Galicia—which is where the importance of this document lies. In his role as legislator, Riego proposes general laws designed to solve problems that, from his perspective, presented themselves in the daily lives of New Galicia’s indigenous communities, in addition to forms of conduct that should be prohibited. These documents are a testament to his experience in and knowledge of the daily activities, behaviors and conduct of the indigenous peoples in the region. Santiago del Riego proposes to the king and his council a solution, in the form of general laws, to the problems that were arising among these

¹⁷ *Ibid*, p. 24.

¹⁸ The Spanish Archives Portal, Archivo General de Indias, 5, R. 18, N.66.

communities, including the farming of magueys, the production of alcohol from the maguey plant and its commercialization, which led to alcohol abuse and crime, which is why Riego proposed banning these activities among the indigenous peoples.

Before going into the contents of these decrees, I would like to thank all of the researchers who set aside the analysis of these ordinances and to those who dropped the study of mezcal altogether, under the assumption that mezcal was Filipino and mestizo. Many presume that it was invented by the Marquis of Altamira and produced in the Hacienda de Cuisillos, and that at some point, production was banned and later resumed when permission to produce mezcal was first granted to a *criollo* in the town of Tequila at the end of the eighteenth century. All of the above is completely false.

The ordinances proposed by Santiago del Riego not only refute the theories outlined above, they also prove that King Philip II and his Council of the Indies, as of the year 1576, were aware of the maguey farms run by indigenous people in New Galicia, and of the distilled beverage that indigenous people produced from this plant and its commercialization, all of which, in Riego's opinion, was to be prohibited.

Ordinances for the Native Settlements of the Kingdom of New Galicia
by Santiago del Riego
Judge of the Royal Court of New Galicia
Submitted to King Philip II
and His Council of the Indies
November 1576

The following letter was written by Santiago del Riego on November 9, 1576 and addressed to King Philip II and his Council of the Indies:

Your Royal Majesty,

With regard to the Zacatecas mines, it would be of great value to send one of Your Majesty's servants to observe these mines, along with a copy in duplicate of the enclosed document, which is testament to the inspection I have conducted thus far and to what still remains for me to complete.

From Zacatecas, I made my way toward the interior and headed directly to the mines of Nuestra Señora de la Nieves, a good region although it strays from the trade route. A mere four miners arrived and settled here with only their shirts on the backs, but within a year, they made 10 000 silver marks, a considerable amount for such an impoverished and remote village. If they had the provisions and the manpower, their income would expand exponentially, and consequently, the royal treasury.

A resident, who settled seven leagues from here, built homes and foundries at the royal mines, and from my understanding, these mines are highly profitable. If these lands were more stable, not only in the immediate area but in the entire region, within a radius of seven leagues in every direction, abundant deposits would be found because the ground is rich in metals and exceedingly fertile, and therefore also prime for raising livestock and agriculture. It brings tears to my eyes to see it ransacked by thieves.

At the Las Nieves mines, about seventy Chichimecas came to me in a gesture of peace saying that they had always been friends of the Christians and would continue to be. They had worked with the Christians and they were not the ones responsible for pillaging the area; it was others, their enemies. I took them in and ensured that they would be well received by the residents in the area as well. In an attempt to maintain some order, I helped to convert them into faithful Christians. I decreed two or three things they had requested, simple things of little importance, but which pleased them immensely. And this, within the context of issuing decrees which I deem for the betterment and good governance of the mines.

I set out for the San Martín and Sombrerete mines, where I stayed for two weeks, trying to determine which measures would facilitate the conservation of these mines and neighboring settlements. I decreed what I judged to be in the service of God, Our Lord, and Your Majesty. In addition, I believe these are the most abundant mines, the richest in metal deposits discovered to date, but given the current state of things, the land is largely underutilized compared to how

things could be managed. That being said, the Chichimecas offer all the produce they have to spare to the residents and miners, and although at my request, the Viceroy has brought in soldiers, this protection is not complete or sufficient. What would be extremely useful for the Royal Treasury and for the residents is if Your Majesty ordered a large group of Indians from Tascalá (sic) or Mexico City to settle in the region, close to the mines of Zacatecas, perhaps offering them something in return; the benefits from their settlement in the region will far outweigh any concession on Your Majesty's part. This undertaking will subsequently benefit the Royal Treasury and the current residents beyond comparison, and the land will be secured.

Please understand, Your Majesty, it is difficult to conceive of any other way to protect the land. The population of these two villages, San Martín and Sombrerete, is small and the number of residents and haciendas does not exceed those indicated in the documents attached to this letter; however, by following my recommendations, the populations are sure to increase considerably.

From these villages, I returned to Fresnillo, a city that is weighed down by the same issues as other populations and that will require similar forms of support. I then returned to Zacatecas and the day following my arrival, I learned that the Audiencia had opposed the execution of the decrees I had issued in Zacatecas. I was taken aback since, as Your Majesty can observe, these ordinances are in the service of God and in the service of Your Majesty, and aim to protect the inhabitants. In the event that something should be overlooked, I believe that it stands to reason that the ordinances should be revised prior to being opposed altogether. The ordinances were carefully drafted on the basis of my personal observations and experiences, and I believe that the abruptness with which these decrees were rejected is unmerited, given that these ordinances and provisions are, in my opinion, highly advisable for the good, Christian governance of the people and the expansion of the native population.

Despite the tremendous risk and cost, I made the decision to conduct this inspection, but I have come to understand that it was fruitless to give orders and to issue laws when they will be immediately revoked without proper assessment. I decided to not waste any more time and returned home. However, upon my arrival, I learned that my provisions were rejected due to the sole fact that the president claims that he is the only official who is authorized to issue decrees. I left following the provisions without expecting to encounter any such opposition: if the person who conducts the inspection is not authorized to ordain laws within the jurisdiction of the visit, it makes no sense to conduct a visit in the first place.

I do not lend much importance to what has transpired because this particular work is my duty, and I have not spoken nor will speak of it. But I believe that visits to the kingdom are very much in keeping with the service we owe to God, Our Lord, that they serve to clear Your Majesty's royal conscience and that they are for the good of Your Majesty's subjects. In order to avoid this type of contention in the future, it will be necessary for Your Majesty to establish the jurisdiction of future inspectors: what they shall be authorized to decree and on what grounds.

The deputies of the Zacatecas mines have requested in writing that the decrees I issued be validated. From my understanding, the Royal Courts will not pass these decrees, which is why I implore Your Majesty, with all humility, not

that they might be decreed, but that Your Majesty may have them reviewed, and with that simple gesture, I shall be satisfied with having completed my duty and with having dedicated time to preparing these ordinances. I have attached copies of these decrees to this letter in case those I sent from Zacatecas have been lost. Our Lord, Your Royal Highness of the Catholic Church, Your Majesty, may your kingdoms and dominions expand with each passing day.

Guadalajara, November 9, 1576

Your Royal Majesty

As the humble servant of Your Majesty, I kneel down and kiss your royal hands and feet

Santiago del Riego

At your service, 1576

Galicia

Attached to this letter, the decrees issued in Guadalajara, November 9, 1576

Alonso Hernando

[Signatures]

This letter was accompanied by the following Ordinances for the Native Settlements of the Kingdom of New Galicia written by Santiago del Riego and submitted to King Philip II and His Council of the Indies.

To Your Royal Majesty,
King Philip, Our Lord
At His Royal Council of the Indies

Guadalajara

We, Santiago del Riego and company, state that upon inspecting the Indian villages of this kingdom, we have witnessed disorder and ineffective policies implemented by the rulers, mayors and *tequitlatos* [native administrators], whose duty is to ensure the proper treatment of the natives, including adequate nourishment and protection, so that in the future there may be order and that abuses and mistreatment on the part of the Royal Court of this kingdom and of its governor may be eliminated. We offer the ensuing provisions and order for these ordinances to be observed henceforth in these settlements, in which I am currently conducting an inspection:

1. Firstly, I order that the first day of January of each year, the governor, mayors and magistrates (if applicable, and if not, the *tequitlatos*) shall select and appoint the mayors, magistrates and bailiffs for that year, who are the most competent and capable, in addition to being good Christians who lead virtuous lives and maintain healthy reputations. Mayors and magistrates may not serve two consecutive years. When the selection has been made, it is to be sent to His Excellency, the President and Governor of this kingdom, to be authorized.

2. I command that henceforth, he who is or was the governor or mayor shall not prosecute or impose a fine upon Indians for living with a woman out of wedlock or other similar misdemeanor given that such crimes are the domain of the Church. The only punishment that can be applied consists of 100 public lashings and

payment for their incarceration, no more and no less than one *real* for men and half a *real* for women for the first offence. The sentence is doubled for the second offence.

3. Henceforth, mayors and bailiffs shall not arrest nor order to be arrested any married woman who has committed adultery against her husband. In the event that the husband should decide to take action and request that the guilty parties be arrested, upon his request they shall be apprehended and the mayor or district magistrate must be informed to bring justice. The husband has the right to submit a request for the imprisonment of the guilty parties or for the infliction of a mild punishment (depending on the crime), in which case the husband shall be withdrawn from the motion and complaint. However, if the mayor is not present during the proceedings, the accused shall be released from custody.

4. Bailiffs shall not take any person into custody unless the perpetrator is caught in the act or the bailiff in question has a warrant issued by the mayor. In the event that perpetrators are caught in the act, the officer must inform the mayor, and the criminals shall be punished according to the stipulated law. The mayor is to process the criminals and release them from prison as quickly as possible. Indians shall not be incarcerated for misdemeanors for more than two days. To guarantee greater security and to ensure that the natives are not mistreated, I command that mayors visit the prison two times per week, Wednesday and Saturday, and release the prisoners in view of the above-mentioned mandate in order to allow them to attend to their work duties and farms.

5. In the case of more serious crimes requiring the death penalty or limb amputation, governors or mayors are asked to take special precautions when taking the accused into custody. If the mayor is present in the region, he must be informed of the incident. In the mayor's absence, the details of the crime or criminal activity are to be sent along with the incarcerated guilty parties to the kingdom's Royal Court. If there are witnesses to the crime in question, their statements must be taken as quickly as possible to prevent either the criminals' premature release or their mistreatment in prison, as the case may be. If the mayor is present, he is expected to follow what the law stipulates for these types of crimes.

6. When collecting taxes among the natives within the region, the governor, mayor, bailiff or *tequitlato* shall not, under any circumstances, go directly to the homes of the natives to collect the said taxes, nor assemble them in the village to charge them collectively at the end of the applicable period. The collection of taxes must be announced in the church when the majority of the community is present, ensuring that they understand the amounts to be paid by each individual, who is expected to bring their contribution to the governor's or community leader's office on the day specified by the governors, mayors and magistrates. On that day, the leaders shall receive the total amount each Indian is expected to pay, and nothing more. The paid amounts shall be recorded in writing. These proceedings shall be conducted in each village. The Indians are obligated to pay in *tomines* [Spanish silver coins used in New Spain] and they are expected to set money aside for the tax. No one shall be charged twice, or more than what is owed. Any leader who charges more than the specified amounts shall be dismissed from his position and banished from the village for a period of one year. The villagers who do not meet their obligation and pay their taxes in a timely fashion, as outlined above, shall be incarcerated.

7. In order to establish records of the Indians residing in a given region for the purposes of the services offered, particularly with respect to tax collection and recording keeping, I command that henceforth the governor, mayors and magistrates shall ensure that all Indians are registered in writing, including their civil status (single, married, widowed) and whether they are living under the roof of their tax-paying parents. Those who have left their parents' home and have married and are having children shall be expected to pay their taxes and will not be allowed to avoid or abstain from paying the allotted amounts. These records shall also be used by the Royal Court of this kingdom to obtain information regarding the treatment and protection of the natives, who shall be protected by law. The above also applies to Indians from other regions who have settled in the said region. All Indians shall be registered and those who fail to do so will not be allowed to practice their trade and will be punished with the full force of the law.

8. I order and command that henceforth both resident and migrant Indians are forbidden to move or transit between villages or neighborhoods as a way to evade their responsibilities in terms of work and tax payment. Nor shall they move to the hills or ravines surrounding the village, or leave the congregation. Those living outside the village are obligated to settle inside the village. I command that the mayor of the district, or in his absence, the governor of the said village shall penalize those who move between villages, as mentioned above, or who have left the village, and force them to reside within the village. If the Indians are in any way mistreated in the process, the mayor shall be notified to remedy the situation. The mayor is also obligated to stay informed of such matters and to ensure that the Indians are properly treated. Those who marry outside of the village or neighborhood or, for just cause, were forced to move to another village or neighborhood must unregister from the former village and subsequently re-register at their new location, where they will be expected to pay their taxes in the amount stipulated by law.

9. I command that if an Indian is unable to work all or some of his land, whether out of laziness or owing to the plot's size, and fails to work the land for two consecutive years, and as a result, the land in question becomes overgrown and difficult to restore to a working state, the governor and mayor of said village have the right to assign the land to a tenant farmer in order to make use of the land for farming purposes. This transaction between the original owner and tenant farmer shall be recorded in writing. The agreement does not imply possession or ownership. If, in the following year or years, the original owner should decide that he wants to return to the property to work the land, the tenant farmer must disengage from all activities and concede the lands to the original owner. If the owner should find someone else to rent the property and decide to proceed with a rental agreement, the governor or mayor are no longer authorized to pass the land onto a tenant farmer until the rental period has expired.

10. I order and command that resident and migrant Indians shall henceforth establish communal lands in order to pay their mandatory tributes in corn and other staple foods. They shall be expected to cultivate the land, harvest the crop and set aside a portion of these crops, which shall be given to the officials in charge of royal revenues and tribute collection on behalf of Your Majesty. When the tribute is collected, the amount of corn owing is weighed and the rest is returned to the community, so it may be stored and sold when prices are high. The proceeds of the sales are to be kept in a safe, for which three copies of keys

shall be made: one shall be held by the governor and the other two by the mayors. All of the earnings placed in the safe shall be recorded in a logbook, and these earnings shall go to pay for the needs of the village. No purchases shall be made without the consent of the village's mayor, priest or vicar. The governor and mayors shall closely monitor the communal lands used to pay the village's tributes, ensuring that these lands are properly used and managed. In the event that the above is not upheld, the Indians shall be forced to comply. Failure to do so shall result in punishment.

11. I command henceforth that during the months of October and November of each year, the period in which Indians are least busy, the governor and the village mayors shall force both resident and migrant Indians to build and repair the main roads that extend from every village to the outskirts. They shall pay special attention to the road sections that are damaged or closed off due to flooding in order to ensure that carts and wagons may drive along them safely, without risk or undue effort.

12. I order and command that henceforth the governor and mayors of a given village must keep a watchful eye for orphans living in the village: boys and girls who have lost both their parents. Those who retrieve them are expected to return them to their closest relatives, along with their possessions and the properties they might own. If the child or children do not have relatives within the community, they shall be assigned to a dependable resident Indian for their rearing and religious instruction. The lands left behind by the parents shall be rented out in order to help feed and sustain the new family and to repair the houses that the children have inherited. All possessions and properties shall be documented and passed onto the child or children when they come of legal age to manage the property and work the land themselves. In the event that the child inherits the above possessions and properties through marriage, the possessions and properties shall be clearly noted and accounted for. The mayor shall be responsible for and should take special care to ensure that the abovementioned is properly executed.

13. I order and command that resident and migrant Indians who are able to work more than the land they own, whether by themselves, with the help of their sons or by other means, or require plots of land for farming or for rotating crops, may hold the governor and mayors responsible for ensuring that the land is made available to them and adequately distributed to their satisfaction, while ensuring that have everything they need to till the land. Given that there is an abundance of land that is underutilized, these lands should be properly distributed, cultivated and used to attract villagers to repopulate these areas.

14. I command that the governor, mayors and magistrates are responsible for ensuring that each Indian farmer plants at least four sacks of corn per year, and six if he relies on the help of his sons. If they are willing and able, they are welcome to produce more than the assigned minimum given that their main income and source of food stems from farming. The mayors and magistrates of the region shall report on whether the abovementioned standards are met.

15. I command that when a Spaniard purchases corn from the natives for resale, the governor and mayors of the region shall be responsible for ensuring they are informed of the prices at which corn is bought and resold and that the natives are not coerced to sell their products at a lower price than their rightful value. Indian

farmers produce considerable quantities of corn, which they need to provide for their families, and must ensure they have the sufficient amount for this purpose, especially during the rainy season when disease tends to run rampant. They shall not receive clothes, blankets or money advances to start another crop. Spaniards shall not provide loans or make advance purchases. Anyone who fails to adhere to the above shall be penalized: penalty for the first offence is ten pesos in common gold to be paid to Your Majesty's treasury and the accuser. Indians shall not be paid on credit, nor shall purchases be made in advance. Penalty for the second offence shall be double; the third offence shall result in exile from the village and region. The magistrate and mayor of this region shall pay careful attention to ensure that these provisions are met.

16. I order and command that the said governor, mayors and magistrates shall not collect *tomines* or any other currency among the natives, nor impose forced labor or collect tributes among the natives claiming that it is for the purchase of supplies for the Church or provisions for the community. In the event that provisions are required for the Church or the community, the leaders are expected to consult the Royal Court of this kingdom and submit a written request in order to receive authorization. Should an official proceed without proper authorization, he shall be dismissed from his position and punished according to the law and the applicable provisions established by Your Majesty.

17. I order and command that the mayor and magistrate of a given region shall be responsible for taking annual inventory of the possessions and properties owned by the community. This information shall be documented and submitted to the governor, mayors, magistrates and *mayordomos* [ceremonial stewards]. They shall also ensure that money is not spent on nonessentials but only on that which is absolutely necessary and for the common good of the natives. They are also responsible for taking inventory of the crops used for tribute and of other works carried out for the good of the broader community. The remaining proceeds shall be accounted for and safely stored.

18. I command that the authorities, governor and mayors shall be responsible for ensuring that the natives plant and grow the Castilian fruit plants and trees that the soil of the region can support. The authorities shall also forbid the planting of maguey, nopal, mesquite or other trees endemic to the region within the confines of the village, given that they upset the harmony of the community and lead to the proliferation of disease. Endemic plants and trees must be kept and grown outside the community, at an adequate distance to ensure that the said health and safety risks are controlled.

19. I order and command that under no circumstances shall an Indian of the said community produce alcohol from maguey, corn, *tunas* [prickly pear fruit] or any other fruit, nor sell or buy such products. Any maguey crops that are grown for the purpose of producing alcohol shall be eradicated. It is also strictly prohibited for Indians to build cabins on maguey farms, where they have been known to produce this alcohol and to engage in drinking binges. These cabins shall only be used to produce nectar and rope and other useful things from maguey. The governor and mayors are responsible for taking legal action in the event that Indians are found to be producing alcohol. Punishment is flogging and if they fail to mend their ways, they shall be exiled from the community. These measures are aimed at eradicating drunkenness and other wrongdoings that result from it. If an

official should be found to consume alcohol and become inebriated, he shall be dismissed from his position and a new official shall be appointed to take his place.

20. I order that henceforth if Indians should return to the said community to live, the governor and mayors shall be responsible for gathering information and making a written record of their place of origin, marital status and who married them. If they do not arrive with their wives, they shall not be welcomed nor given lands until they bring their wives. If they claim they are single, they shall provide information about where they are from, and if they prove to be single, they shall be advised to marry and to abstain from living with a woman out of wedlock. Having conducted the abovementioned formalities, the married and single Indians shall be allotted land and shall make proper use of the land.

21. I order and command that henceforth no married Indian shall leave the community to work in the mines or to travel to any other region for a period longer than two weeks without informing the authorities and requesting a license from the governor and mayors. A written record shall be made of the following: their full names, the names of their spouses, where they are requesting to travel and for what purpose. They shall be assigned a date upon which they must return depending on the region they wish or need to travel to. If they request to stay for a longer period of time, they shall not be given permission without the consent of the mayor of the said region. If it is suspected that they do not intend to return or will not perform their expected duties, they shall not be given authorization. Upon the end of the terms awarded, traveling Indians are expected to send a report of their visit to the mayors and officials where they stayed, who shall compel them to return to their village in order to live with their wives.

22. I order that the mayor or magistrate of a given region shall register all tax-paying Indians from the said village and its community, including civil status (single, married, widowed). The governor and mayors shall make a second written report of those who are new to the village, either through expansion of the population or marriage, so it may be determined the taxes they owe in accordance with the stipulated rates, ensuring that no one is unfairly charged or mistreated. Officials are expected to pay special attention to the equal and fair distribution of taxes based on the stipulated rates. Upon completing his mandate, the mayor is expected to submit the registration records to the new mayor. These records are to be produced on an annual basis.

23. I order and command that he who is or was the mayor or magistrate of this village and region shall be responsible for and pay special attention to ensuring that these ordinances are met and executed, and that officials comply with the activities that they are hereby ordered to meet. It is also their responsibility to ensure that the natives of this region understand these regulations and must report on whether they have been adhered to. Those who fail to do so shall be dismissed from their position and shall be fined 200 pesos in gold, which is to be sent to Your Majesty's treasury; they shall also pay for half the cost of the battle against rebellious Indians. The governor and mayors of this village shall ensure that those arriving to the region are informed of the importance of adhering to these ordinances and other critical provisions.

Santiago del Riego [signature]

Ordinances for the Native Settlements of the Kingdom of New Galicia

End of text

Among the above outlined ordinances proposed by Santiago del Riego, we would like to highlight one ordinance in particular, no. 19, which establishes the following:

19. I order and command that under no circumstances shall an Indian of the said community produce alcohol from maguey, corn, *tunas* [prickly pear fruit] or any other fruit, nor sell or buy such products. Any maguey crops that are grown for the purpose of producing alcohol shall be eradicated. It is also strictly prohibited for Indians to build cabins on maguey farms, where they have been known to produce this alcohol and to engage in drinking binges. These cabins shall only be used to produce nectar and rope and other useful things from maguey. The governor and mayors are responsible for taking legal action in the event that Indians are found to be producing alcohol. Punishment is flogging and if they fail to mend their ways, they shall be exiled from the community. These measures are aimed at eradicating drunkenness and other wrongdoings that result from it. If an official should be found to consume alcohol and become inebriated, he shall be dismissed from his position and a new official shall be appointed to take his place.

As we can see, this proves that prior to Santiago del Riego's inspection conducted in 1576, the Spanish authorities were aware of the existence of a distilled beverage that was produced by the natives of New Galicia made from the maguey plant. They also knew that maguey crops were farmed to produce this alcoholic beverage and the way in which it was commercialized. The proof lies in the acknowledgement of repeat offenders, who were to be punished by flogging and exile.

The Spanish authorities were also conscious of the fact that the natives produced mezcal within the maguey fields, which is why del Riego recommended that maguey fields and the cabins built on these sites be banned. The authorities were aware that not only did natives produce mezcal on these maguey farms, but that this was where they held "drinking binges"—which I would call "ritual ceremonies."

I doubt that Santiago del Riego was the first to discover these incidents. I believe that what the judge sought to do with his ordinances was to circumvent the Royal Court of New Galicia and to submit directly to the king and his council evidence of what was already widely known, so that King Philip II could make his own ruling on the issue and the proposed prohibition.

The information collected by Santiago del Riego of the illegal activities being conducted by the natives of New Galicia was obviously nothing new, firstly because maguey plants are quite slow growing, and secondly because maguey sap also takes a considerable time to ferment. Upon discovering these events, Santiago del Riego must have thought it best to bring it directly to the attention of the king, requesting confirmation and validation of the tendered ordinances.

As early as 1576, King Philip II and his Council of the Indies were made aware of this distilled beverage being produced in maguey fields in New Galicia, and the fact that it was also being sold. They also had knowledge that the natives of New Galicia would drink this distilled beverage to the point of inebriation.

But the king and his council ignored del Riego's proposal; they ignored the maguey fields, they ignored the alcohol that was being produced from the maguey plant, and they ignored the natives who were selling the distilled beverage, known as mezcal. In addition to the king and his council, the viceroy and the Church also ignored these illicit activities.

Santiago del Riego's plan to forbid the natives of New Galicia from farming the maguey plant and from producing mezcal ended in failure. However, the proposal outlined in the ordinances that Santiago del Riego formulated and presented to the king is solid evidence that this distilled beverage, which the Spanish authorities ultimately dubbed "mezcal," is a purely indigenous alcoholic beverage. From its origins, this drink was made from the maguey plant farmed by indigenous peoples, it was produced by indigenous peoples and it was sold by indigenous peoples, proving that mezcal is not mestizo but part of an ancestral legacy—a pre-Hispanic tradition.

Today, I can attest that 29 years after Francisco Delgadillo's warning that the natives would drink alcohol to the point of intoxication, as he declared in his testimony in 1547, Santiago del Riego emerges in 1576 and confirms these warnings, but provides more information. Through his ordinances, del Riego specifies that the alcoholic beverage was produced by the natives using the maguey plant and that they cultivated maguey fields for this purpose. Within these maguey fields the natives built cabins where they would produce the beverage, and they also marketed the product. The purpose behind Santiago de Riego's exposition was to propose that these activities be banned given that they led to alcohol abuse.

In 1637, some 61 years later, Juan de Canseco Quiñones, then president of the Royal Court of New Galicia, did something slightly more pragmatic and ingenious than Santiago del Riego. Having recognized that this beverage—by then widely known as mezcal—continued to be consumed, instead of prohibiting it, he decided to make it available for purchase at *estancos* (liquor outlets) in the city of Guadalajara, the profits of which went to the city. In 1673, another 36 years later, Queen Mariana of Austria, then queen regent of Spain, authorized this beverage, which was presented under the name *vino mezcal* (mezcal wine) by Francisco Calderón y Romero, who presided the Royal Court of New Galicia. The queen also authorized the selling of mezcal at liquor outlets, and as practiced earlier that century, the proceeds of which went toward the introduction of piped water into the city of Guadalajara.

From that point on, rather than being banned, sales of *vino mezcal* continued to expand across New Galicia. This implied, of course, the expansion of maguey farming and mezcal production, without a single restriction. This continued for 95 years, until 1768, when anyone—*criollos*, mestizos, and not just indigenous peoples—was allowed to participate in any and all of these activities. Around that same period, a tax was levied on mezcal production, known as the *derecho de cribas* (filter tax), as mentioned at the beginning. These developments, however, only took place within New Galicia, and it wasn't until 1811, some 43 years later, that mezcal production was permitted across New Spain.

Conclusion

To this day, I have yet to find a definition of the term “early distillation” that adequately reflects my position and encapsulates what I have established here. I have, therefore, decided to come up with my own:

Early distillation is a term that refers to the distillation process of the fermented juice of the maguey plant—specifically farmed for this purpose—by the native Indians of the western region of Mexico, using ceramic distillation systems to produce an alcoholic beverage: what the Spanish authorities referred to as *vino mezcal*. This process dates back to around 1500–1100 BCE, corresponding to the Capacha phase and practiced up until 1576, the year in which official documentation was produced—when officials of the Royal Court of New Galicia, and in particular judge Santiago del Riego, recognized the existence of maguey farms in the indigenous settlements of New Galicia, the existence of the alcoholic beverage made by indigenous peoples from the maguey plant and the commercialization of the subsequent product. This documentation also unveiled the intention to ban these activities: the prohibition of the natives of New Galicia to produce, sell and consume mezcal, as evinced in the ordinances prepared by Santiago del Riego and submitted to King Philip II and his Council of the Indies.

The distillation of mezcal, produced by the natives of New Galicia, and namely by the community of Amatitán in the small town of Tequila, is irrefutably an indigenous process that existed before the arrival of the Spanish.

I welcome my opposers to present their duly founded and justified arguments to refute my claims, as would be customary of any debate.

Miguel Claudio Jiménez Vizcarra