The imperceptible financial (r)evolution of the censo

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ABSTRACT

Like other European polities during the medieval and early modern period, the Crown of Aragon experienced a financial revolution in the 14th century. The censo, a credit instrument recognised as non-usurious by successive popes, was one of the central elements of that revolution. In the following centuries, after the diffusion of this financial mechanism to other Hispanic kingdoms, the revolution became an evolution thanks to the flexibility that censos offered. The hypernymy of the term “censo” permitted to modify the clauses of the contract without losing its licit character and the recognition of the secular and ecclesiastical authorities. The characterisation of the censo as a revolution and evolution has been hindered by its features of polyonymy and polysemy; they made the (r)evolution imperceptible. Several examples demonstrate that the financial evolution continued until the emergence of modern credit. Due to confusion and ambiguity, deliberated or unintended, the preindustrial and modern credit regimes overlapped. Thus, the sustained evolution of the censos and other similar formulae continued until the early decades of the 19th century.

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La (r)evolución financiera imperceptible del censo

RESUMEN

Como otras entidades políticas europeas en el medioevo y la época moderna, la Corona de Aragón experimentó una auténtica revolución financiera. El censo, un instrumento crediticio reconocido como no usurario por sucesivos papas, fue uno de los elementos centrales de esa revolución. En los siglos siguientes, tras la difusión de este mecanismo por otros territorios hispánicos, la revolución devino evolución gracias a la flexibilidad que ofrecían los censos. El carácter de hiperónimo del término “censo” permitió modificar las cláusulas del contrato sin perder la licitud y el reconocimiento de autoridades civiles y eclesiásticas. Cuestiones de polisemia y polionimia han dificultado la interpretación del censo como revolución y evolución, haciéndolo imperceptible. Varios ejemplos demuestran que la innovación financiera continuó hasta la aparición del crédito moderno. Por confusion y ambigüedad, deliberada o no, los regímenes crediticios preindustriales y modernos se solaparon. Así, la evolución continua de los censos y otras fórmulas similares se prolongó hasta las primeras décadas del siglo xix.

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1. Introduction

In the last decades, historians and economists have revisited the commonplace of the lack of an authentic credit system in Spain and other Southwestern European and American regions prior to the mid-nineteenth century. For some historians and economists, the late and slow development of banking systems derived from the previous unavailability of credit services would explain the economic backwardness of those countries and their overseas territories (Tortella Casares, 1982; Levine, 1998, 2005). Yet, on the basis of archival sources and a myriad of local and regional studies, economic historians have challenged these reductionist theories by showing that there is little empirical evidence of that absence of financial services. They have proved that credit worked effectively and was easily accessible in regions like Spain (Andrés Robres, 1986; Atienza López, 1993; Grafe, 2012, 2020; Milhaud, 2019), the Spanish America (Burns, 1999; Wobeser, 2010; Levy, 2012; Zegarra, 2016, 2017; Wasserman, 2018), and elsewhere in Southern Europe (Costa et al., 2018; Hoffman et al., 2019).

One of the instruments that explains such a tremendous expansion and availability of credit in pre-modern times was a type of annuity called censo in Spanish, a hyperrnym that encompassed a broad array of credit contracts. Firstly, this paper is intended to offer a historiographical aggiornamento of the censos, characterising them as one of the main elements of the financial revolution which took place in the fourteenth-century Crown of Aragon. Innovation did not cease after that revolution, though, but continued during the Late Middle Ages and the early modern period thanks to the umbrella-term character of the censo. Since it could be adapted to the necessities of lenders and borrowers, the instrument kept evolving until the early 19th century, when the transition to modern credit occurred. This article covers a period of more than four centuries. Although section 2 is focused on the Crown of Aragon as the forerunner of that financial revolution, the analysis is extended in section 3 to the Crown of Castile, describing laws, contracts, and clauses used there too. The reasons why innovation has not been perceived as such are explained then. Although the third section also examines the transition from pre-modern to modern credit through some Aragonese examples, the same transition would have happened, hypothetically, in Castile and elsewhere. Conclusions follow in section 4. By crossing secondary literature and archival sources –ranging from deeds of censos to ecclesiastical accounts and records–, it becomes clear that, even though it has usually gone unnoticed, the censo represented a process of continuous financial innovation which started in the Middle Ages and would not finish until the modern era.

2. The financial revolution: Usury, interest, and money-lending

The notion of financial revolution was coined by Dickson to describe the institutional and political changes in late-sev-enteenth-century England which led to the consolidation of long-term national debt secured by taxes raised by the Parliament. That would have been the main cause of the extraordinary expansion of the British overseas empire and its precocious industrial revolution (Dickson, 1967). His thesis is quite close to the idea of credible commitment formulated two decades later (North and Weingast, 1989). Dutch historiography has also characterised the innovations in credit as a financial revolution. Whereas some historians locate it in the 16th century, in the dramatic expansion of public debt during the Dutch revolt (’t Hart, 2014; Tracy, 1985), others situate the innovations in the late Middle Ages (Zuijderduijn, 2009). It has been also suggested that the financial revolution was first a series of innovations in private credit applied later to public finances (Gelderblom and Jonker, 2004). Fratianni and Spinelli argued that Florence, Genoa, and Venice have been underestimated because they disappeared as polities, but they were the cradle of the financial innovations which would be used and further developed during the following centuries in the Netherlands, England, and the United States (Fratianni and Spinelli, 2006). Hence, rather than an exclusively early modern English phenomenon, financial revolutions occurred elsewhere in Western Europe since the late medieval period. The Netherlands, Northern France, some German territories, the North of Italy... They all experienced similar processes of dramatic financial innovation, sometimes adapting instruments used in private transactions to the necessities of public entities (Boone et al., 2003; Munro, 2003; Pezzolo, 2013).

Although historians like Epstein and Stasavage, perceived unusually low interest rates in the public debt of the Aragonese towns (Epstein, 2000; Stasavage, 2011), and others included the Crown of Aragon among the polities which precociously developed sophisticated financial innovations (Boone et al., 2003; Pezzolo, 2013), only a few regional historians have clearly defined those original arrangements as a financial revolution. García Marsilla was one of the first to do it. He used the term to describe the expansion of the borrowing capacity of families and private individuals in medieval Valencia (García Marsilla, 2002). For Ortí Gost, the extension of the instruments used in private transactions to the Catalan municipalities in the 14th and 15th centuries represented a second financial revolution (Ortí Gost, 2007). Sánchez Martínez, Furió, and Sesma Muñoz explained the origins of that system, how the wars of the mid-fourteenth century triggered a series of institutional and political changes by which the Aragonese town councils and the permanent deputations of the parliaments started developing autonomous fiscal and financial systems (Sánchez Martínez et al., 2008). Another major innovation was the detailed regulation of the notaries, essential to provide legal security (Fagarolas et al., 2018), and elsewhere in Southern Europe (Costa et al., 2018; Hoffman et al., 2019).

Footnotes:
1. For the sake of clarity, the Castilian terminology will be used throughout this paper. Thus, even though they are often interchangeable, “censo” or even “annuity” will be preferred over “censal”. The name of the contracts or the clauses will be given in Castilian too.
2. The Crown of Aragon was a polity born in the 12th century from the union of the Houses of Aragon and Barcelona. During the following centuries it expanded across the Iberian Peninsula, Southern France, and the Mediterranean Sea. The territories incorporated into the Crown of Aragon preserved many of their institutional and legal arrangements. The union of the Crowns of Aragon and Castile in the 15th century and the emergence of the Hispanic monarchy did not imply a homogenisation. Even after the War of the Spanish Succession (1701–1715) and the promulgation of the Decretos de Nueva Planta –a series of decrees which abolished the traditional Aragonese laws and institutions either partially or totally– the peculiarities of the Aragonese countries persisted for decades.
with precision, since the core and the clauses of the contracts vary widely from country to country.

Broadly speaking, the censo can be defined as the transaction in which a buyer-creditor acquired the right to receive an annual pension from a seller-debtor, who in exchange received capital or a piece of real estate. The buyer-creditor was called censualista, censalista, or acreedor, whereas the seller-debtor was called censatario or deudor. The pension appears in the sources as pensión o rédito, and the capital as principal or simply capital. Although these were the basics of all the censos, there were some variations from the very beginning. Theoretically, the censo had always to be related to a fruit-bearing piece of real estate, one way or another. When the seller-debtor received a piece of real estate, like a house or a piece of land, the censo was either reservativo or enfitéutico; in this case, the presence of real estate is self-evident. However, when the seller-debtor received a sum of money—the so-called censo consignativo—the real asset was used as collateral to secure the payment of the annual rent. Here lies one of the major differences between censos and modern loans: whereas in the censo the collateral secures the payment of the annual rent, in the loan the mortgage it secures the capital (see figure 1). In both formulae, the collateral could be sequestrated in case of repeated non-payment of the pension or the interests. The differences between both are even clearer when the perpetual character of the censos is considered. These annuities, in their perpetual variety, were not cancelled when the debtor paid back the amount borrowed plus the interests on a date arranged by the parties; on the contrary, the pension must be paid every year indefinitely until the debtor decided to cancel or redeem the censo by paying back to the creditor the amount he/she had originally received, i.e., the whole capital. This act was called redención, cancelación, or, in Aragon, lución. Moreover, the creditor could not force or press the debtor to redeem the annuity (Escriviche, 1838, pp. 673-677; García Sanz, 1961, pp. 286-289; Fiestas Loza, 1993, pp. 549-583; Pereira Iglesias, 1996, pp. 179-180).

A couple of examples may illustrate how the instrument worked. In 1377, in the little village of Urmella (Aragonese Pyrenees), Tomás Solana and Teresa Bardaji, husband and wife, sold an annuity to the priest Sebastián Buil. By signing the contract before the notary, the spouses committed themselves and their heirs to paying every 30th of November a rent of 6 libras to the clergyman. In exchange, they received from him a capital of 120 libras. Solana and Bardaji secured the annual pension on the house where they lived, so, in case of non-payment, the clergyman could take them to court and sequestrate their home. The second example of annuity is easier to understand. It is a censo reservativo, similar to a modern rental. The debtor was Fausto Calbet y Alberich, a lawyer from Tarragona, and the creditor the Hospital de Santa Tecla of the same city. The lawyer paid every year 3 libras and 5 sueldos to the hospital

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1 Although they were less usual than perpetual annuities, there were also censos with maturity, as explained below.

4 FHB, Casa Alto de Urmella, Documentos sobre cargos eclesiásticos, doc. 7. In this case, the annuity was called “censal” and, in fact, had a double mortgage (see below), i.e., the annual pension was secured on the house and “our persons [those of the couple], and all property, both personal and immovable, [...] that we do and will own”. For the sake of clarity, the example has been simplified.
for the full ownership of the house where he lived—which belonged to the hospital. The contract was perpetual and only Calbet could cancel it. In case he wanted to sublet the house, he would have to pay a fee (lluïsme in Catalan) to the hospital. Reconstructing the payment of pensions would be really difficult, if possible, as every annual bill (called ápoca in Aragon) would have to be located. Arrears were frequent, but the lenders were usually flexible. In case of reiterated non-payment, the creditors could resort to sequestration. In the first example, the priest could have foreclosed the house; in the second, the lawyer could have been evicted.

To modern eyes, the censo may seem a terribly onerous form of credit, since the interests could amount to many times the borrowed capital, which had to be paid back too. For medieval people, however, the annuities constituted a true financial revolution. They gained easy access to credit at interest rates lower than the loans offered by Jews. Whereas the latter charged up to 20%, the acceptable rate for the censo was 7.14%; the maximum was 10%, except for the violarios (one-life or two-lives annuities) which could be signed up to 14.28% (Schraer, 2018, p. 160). During the whole early modern period, the usury rate—the cap on censo, called in Spanish tasa de censo—decreased differently in every territory. Even in the 18th century, when the particular laws of the Aragonese countries were either partially or totally abolished, and the Castilian legislation was extended to the Crown of Aragon by virtue of the Decretos de Nueva Planta, the usury rate continued to be different in Castile and Aragon (Giménez López, 2015, pp. 146-157); whereas in the former it was established at 3%, in the latter it continued to be at 5% except for Majorca, where it was 8%.

The formula of the censo not only reduced the cost of borrowing, but, more basically and importantly, it allowed the medieval and early modern people to circumvent the severe restrictions of the Church on moneylending. That was possible thanks to the legal character of the censo contract. As said, the annuity was not a loan in the strict sense of the term, but, in practice, a sort of money rental. Lender and debtor were respectively buyer and seller of an annual pension. In order to justify the licit character of the transaction, the fiction of a sale was created and assumed by everyone: the parties were not always use their right of recourse; in ADH, 9.2.1, 89.

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5 ACCT, Hospital de Santa Tecla, C285, 1.290, ff. 32v–34r. The source is not a deed, but a confirmation of the validity of the annuity and its clauses. The capbreu (list of properties owned by a person or institution) dates from 1785, but the censo existed at least since 1736.

6 See for instance the accounts of the ecclesiastical chapter of San Lorenzo, in Huesca. The priests were owed many years in arrears, but they did not always use their right of recourse; in ADH, 9.2.1, 89.
censo contract, because it proved that the transaction was a sort of mortgage or rental, rather than a loan. Furthermore, the piece of real estate determined the annual interests the debtor must pay. Consequently, if the mortgaged property was damaged or destroyed, the annual payment decreased proportionally, or directly ceased (González de Soucua, 1759, pp. 1-9; García Sanz, 1961, pp. 287-288; Abadía Irache, 1993, pp. 19-24).

The good reception of the annuity in so many countries was due in part to the legal security and guarantee it offered. Although the papal bulls mentioned below established that the contract had to be formalised by a notary, who also counted the money of the capital lent, and registered the annual interest and the piece of real property used as collateral, the contract could be arranged without the intervention of a notary. Optionally, the censo could include other clauses such as additional security offered by the debtor or the obligation of the borrower to improve the mortgaged piece of real estate (Fiestas Loza, 1993, pp. 549-583; Rico Callado, 2020). In the case of the Spanish monarchy, the system became even more secure with the introduction of lien registries, officially in 1539 and 1713, but effectively in 1768. Thanks to those offices, lenders could figure out the solvency of potential borrowers and the possibilities of recovering the capital in case of non-payment by checking how mortgaged a piece of real estate was (Pereira Iglesias, 1996; Peña Mir, 2020).

Apart from legal security, the other cause of the success of the censo was the recognition from the ecclesiastical authorities of the licit character of the transaction. It was the Council of Constance (1414-1418) which first accepted the censo as a non-usurious contract. Nevertheless, it left unresolved another crucial issue, that of the fair interest rate. Because of that uncertainty, borrowers from all over Europe exploited the loophole and decided not to pay the annuities they owed, arguing that the interests were abusive. In order to stabilise the situation, Pope Martinus V issued in 1425 the bull Regimi universalis as an answer to the doubts raised by some Holy Roman Empire bishops. In addition to the already cited legal conditions in the formalisation of the contract—counted money, registration of the interest rate—the pontiff established that a censo could not be considered usurious if the annual pension was proportional to the value of the asset used as collateral. Real property therefore became an intrinsic part of the censo contract, at least for canonists and ecclesiastical authorities.

In his bull, Pope Martinus V distinguished two of the three above-mentioned types of censos. First, he referred to the censo consignativo, by which the creditor lent money and received an annual rent, the latter being secured on a piece of real estate. The second kind the pontiff mentioned was the censo reservativo, which, as said, was a sort of modern rental, since the creditor gave the piece of real property and received in exchange annual revenue. The main difference between this censo reservativo and a third type of annuity which was not mentioned in the bull but existed since Roman times, the censo enfiteutico, was the degree of ownership the borrower acquired. Whereas through the former formula the debtor had full or absolute ownership of the house or piece of land (dominio pleno), in the censo enfiteutico he/she only acquired partial ownership of the piece of real estate, a sort of usufruct (in fact, it was called dominio útile); on the other hand, the creditor preserved the dominio directo, which might be translated as “formal ownership” (see figure 1). Additionally, every time the borrower sublet the usufruct of the piece of real estate, he/she had to pay a fee to the creditor, the so-called laudemio (Ballester Martínez, 2005). By establishing clear conditions for the contracts of annuities, the bull issued by Pope Martinus benefitted not only creditors and debtors in general, but especially the Church and its ever-increasing number of properties, which were all mortmain, i.e., could be neither sold nor transferred. By declaring censos licit, the pontiff opened the door to the mobilisation of ecclesiastical resources that otherwise would have lain dormant. In several Catholic countries, the ecclesiastical institutions would run in the following centuries a true banking system (Andrés Robres, 1987; Atienza López, 1993; Milhaud, 2019). In any case, Pope Martinus’ bull did not settle the dispute over the usurious character of the annuities. Regimini universalis might have established canonically the perpetual character of the censos, as well as contractual and procedural security clauses, but many still saw it as a burdensome formula suspiciously similar to moneylending (Clavero Salvador, 1977, pp. 123-126; Placanica, 1982, pp. 198-202; Giménez Chornet, 2002, pp. 231-234).

The situation became more complicated when Pope Nicholas V issued the bull Solludicio pastorialis in 1451. Apart from establishing the usury rate at 10%, the papal law enabled for the first time another kind of censos which were illegal according to the hitherto existing law. The bull was issued at the behest of Alfonso V, King of Aragon, in order to obtain canonical recognition for a very usual practice in his dominions, namely the possibility of creating censos not collateralised by a specific piece of real property—called censos reales—, but by the entire estate of the borrower—the so-called censos personales. The bull explained how, in the Crown of Aragon, municipalities and individuals, both ecclesiastical and lay, had traditionally and effectively borrowed money through annuities which were secured “specifically on their houses, possessions, and properties, but also on their goods, revenues, emoluments, jurisdictions, and things”7. This practice, which was very common in the Kingdoms of Aragon, Valencia, Majorca, the Principality of Catalonia, and the Counties of Roussillon and Cerdanya, had been confirmed by municipal laws ratified by the kings and the estates in the Cortes (Sánchez Martínez, 2003; Sánchez Martínez et al., 2008; Furió, 2015; Verdés Pijuan, 2015). Through the bull, Pope Nicholas enabled these censos personales and the possibility of using them in the kingdoms of Naples and Sicily (Placanica, 1982, pp. 219-221; Romano, 1994).

There were immediate reactions to the Sollicitudo pastoralis. In 1455, only four years after its promulgation, Pope Callixtus III issued again the bull Regimi universalis, reaffirming the principles established by his predecessor Pope Martinus—namely collateral had to be real property, the interest had to be proportional to the value of the mortgage, etcetera. The bull, however, did not take the expected effect: some canonists continued supporting the validity of the censos personales, whereas others criticised severely these annuities, accusing them of being flagrantly usurious. It should be

noticed that the recognition of this type of censos opened a huge market for credit providers, mainly ecclesiastical institutions, which could then lend not only to owners of real property, but to anyone who had a regular source of income or simply owned something. The successive papal bulls concerning the annuities were accepted, refused, or ignored at every ruler’s convenience, while the debate continued for decades. A new attempt of clarifying the legal status of the censos was made by Pope Pius V one century later. In 1569, the pontiff issued a bull, this time titled Cum onus, which reaffirmed the principles established by Popes Martinus V and Callixtus III, emphasising that the censos could not be by any means personales, but always secured by real estate. The new bull was rejected in many Catholic countries: neither the kingdoms of Sicily and Naples, nor the rest of the domains of the Hispanic monarch—except Navarre and Sardinia—, France, and many German polities recognised the Cum onus. In view of that generalised rejection, Pope Pius tempered his initially rigid position, but some lawyers and authors, more Catholic than the Pope himself, followed the bull to the letter and rejected any kind of censos which was not secured by real property (González de Socueva, 1759, pp. 41-59; Clavero Salvador, 1977, pp. 126-131, 1979; Fiestas Loza, 1993, p. 594 and ff.; Rico Callado, 2020).

Those objectors were a small minority, though. The debates about the usurious character of the censos would not cease during the whole early modern period (Pereira Iglesias, 1994; Calderón Cuadrado, 2000), but by the early 16th century at the latest the formula of the censos was accepted as licit by almost everyone and widely used in the Hispanic monarchy. Even the ecclesiastical institutions, which would be supposed to be more compliant with the papal bulls than anyone else, lent money using the censos. The instrument was flexible, secure, and recognised by civil and religious authorities, and usury as a legal obstacle was not a problem anymore.

3. The financial evolution: Polysemy and polyonym

The formula of censos was the result of continuous interactions between economic necessities, the solutions given to those necessities, and the doctrine of the Church against usurury. Legal, political, and economic practices, however, varied widely from one region to another, and so did the annuities, hence the misuse of the concept censos and the heated debates about its exact nature, today and during the early modern period (Pereira Iglesias, 1993; Alonzi, 2005, 2008; Rico Callado, 2020). When addressing the issue of the censos, a twofold problem is faced, namely the question of polysemy-polyonymy and the scope of the studies on credit. The word censos is a hyponym, so it can have many different meanings and can be used together with other words to speak about the same kind of contract. For instance, censos, like censal, can refer to different types of instruments, and censal and censos muerto can be used to designate the same transaction. This problem of terminology, which represented a crucial issue in trials and in the promulgation of laws in the 18th century, has been sharpened by the scope adopted by many studies on credit in the early modern period. Apart from a focus on regional and local realities, some authors have adopted a purely juridical approach, and, consequently, they have overlooked the practical dimension of the censos. These approaches, albeit meticulous or legally precise, offer generally a narrow view of the functioning of credit (Pereira Iglesias, 1996).

Since there is broader historiographical consensus on the features of the censos rather than on taxonomy, variables are here examined first (figure 2). Both the types of principal lent to the debtor and the kinds of collateral have already been explained. The principal could be money (broadly speaking the censos consignativo) or real property with different degrees of ownership (censos reservativo and censos enfitéutico). Concerning collateral, the mortgage could be a specific real property (censos real) or the entire estate of the borrower, that is, all his/her assets and rents (censos personal). There was a third possibility of using both the whole estate of the debtor and a specific piece of real estate; in this case, the censos was mixto, although this is a rather technical-juridical denomination, rarely used in primary sources (Escriche, 1838, p. 676). Regarding the payment of the annual rent, some authors have asserted that the annuities could be only paid in cash (censos pecuniario). Therefore, those paid in kind (censos fructuario) would have been neither existent nor legal, mainly because the annual interest would have varied according to the harvest (González de Socueva, 1759, p. 60 and ff.; García Sanz, 1961, p. 287). In reality, these type of censos existed, usually in rural areas, and indeed the annual rent varied according to agrarian yields (Abadía Irache, 1993, p. 11). Finally, the annuity could be temporary or perpetual. The former generally lasted for one or two lives and might be seen as a sort of life insurance. This censos was called temporal, ad vitam, or violario and its interest rate was higher than the perpetual one. There is considerable confusion over the censos perpetuos or muertos, since some authors equated them with non-redeemable annuities (Vives y Cebriá, 1834, p. 123; Escriche, 1838, p. 676). Actually, these censos perpetuos could be both redeemable and non-redeemable, the former being called censos redimibles or al quitar in Castile, and the latter just irredeemibles (Giménez Chornet, 2002, pp. 232-233).

These variables offered lenders and borrowers great flexibility to design credit instruments that fitted their necessities. “Censo” was an umbrella term which encompassed many kinds of contracts which resulted from the combination of the abovementioned variables. The notaries just had to include some clauses to adapt the deed to the preferences of the parties; since the transaction was a censos, they were legally and morally protected (Fiestas Loza, 1993; Rico Callado, 2020). There were standard formulae peculiar to one or more regions. With no aim of being exhaustive, table 1 is intended to show some of the most usual contracts in the Crowns of Aragon and Castile, as well as the abovementioned problems of polysemy and polyonymy. Those are just a few examples of the multiple varieties of annuities, some of them almost indistinguishable from each other, encompassed by one single term: censos. In the medieval and early modern times, that variety went sometimes unnoticed de-
liberately, while in other cases the particularities of each region were exaggerated. Usually, there were important political and economic reasons behind those oversimplification and overstatement. Nonetheless, what was a terminological and juridical problem—as well as an additional difficulty when it comes to analysing the financial mechanism—was an opportunity for the users of the censos. Under the umbrella of the term "censo", medieval and early modern peoples found a huge variety of credit instruments that allowed them to develop multiple economic activities. Censo, whatever it meant, offered not only flexibility, but also the juridical and moral security of being recognised by kings, popes, and judges.

Once the censo became widely accepted and used, it could be expected that innovation ceased and even that the annuity became a sclerotic instrument ill-adapted to the new times. To check whether innovation persisted and to what extent the censos became old-fashioned mechanisms, the transition between the ancient credit system and the modern liberal regime is examined. It should be noticed that financial services varied greatly from one region to another, so the following explanations are not extendable to the whole Spanish monarchy, not even to the entire Crown of Aragon. Comparative, interregional, and interlocal studies would be necessary to clarify how financial services evolved during that transition period. As explained above, the usury rate was reduced to 3% in the Crowns of Castile and Aragon in 1705 and 1750 respectively, but (legal) short-term loans were barely used by that moment. Did the purported decline of the censos provoked by the lowering of the usury rate cause a financial shortage? Was there a gap of several decades in financial services due to the sclerosis of the censo and/or the lack of alternative credit mechanisms? Here it is argued that the same questions of polysemy and polyonymy which had characterised the early life of the censos permitted evolution to persist. Like in the previous centuries, the censo and its clauses were adapted to the necessities and preferences of borrowers and lenders, exploiting the hypernymy of the term. Furthermore, since the profitability of the censo fell, the creditors resorted to other credit instruments which bore great resemblance with the annuities; however, they were accused of using those alternative mechanisms as if they were censos, thus generating debates about the exact nature of each contract. Be that as it may, if there was a gap in credit between the 18th and the 19th centuries it was not caused by the lack of financial instruments.

**Figure 2. Variables of censos.**
Source: Own elaboration based on the sources cited in the text.
### Table 1
Selection of standardised censo contracts

<table>
<thead>
<tr>
<th>Denomination</th>
<th>Area</th>
<th>Principal</th>
<th>Transference fee (laismo or fadiga)</th>
<th>Duration</th>
<th>Collateral</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Money</td>
<td>Real asset</td>
<td>Temporal</td>
<td>Perpetual</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Full ownership</td>
<td>Redeemable</td>
<td>Non-redeemable</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Usufruct</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Censo consignativo</td>
<td>Crown of Castile</td>
<td>X</td>
<td></td>
<td>X</td>
<td>X X X X</td>
</tr>
<tr>
<td>Censo reservativo</td>
<td>Crown of Castile</td>
<td>X</td>
<td></td>
<td>X</td>
<td>X X</td>
</tr>
<tr>
<td>Censo enfitéutico</td>
<td>Crown of Castile</td>
<td>X X</td>
<td></td>
<td>X</td>
<td>X X</td>
</tr>
<tr>
<td>Censal/ censo 1</td>
<td>Kingdom of Valencia</td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Censal/ censo 2</td>
<td>Kingdom of Valencia</td>
<td>X X</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Censal/ censo 3 / cens mort</td>
<td>Kingdom of Valencia</td>
<td>X</td>
<td></td>
<td>X X X X</td>
<td></td>
</tr>
<tr>
<td>Censal/ censo 4</td>
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<tr>
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<td></td>
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<td></td>
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<tr>
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<td></td>
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<tr>
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<td>Crown of Aragon</td>
<td>X</td>
<td></td>
<td>X</td>
<td></td>
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</table>

**Source:** Own elaboration based on the literature and archival documents cited throughout the text. Both the cens de nua proprietat and de nua percepción are described in detail in Serrano Daura (2014, pp. 1571-1572). The varieties of censo in the Kingdom of Valencia are explained by Giménez Chornet (2002, pp. 235-236).
One of the mechanisms which prevented credit from ceasing was the obligación. Unlike the censo, this form of credit had maturity and required either a specific piece of collateral or simply none. Furthermore, the cap on the interest rate of these obligaciones was established in 6%, although additional interests were charged unofficially, without being registered in the contract (Tello Aragay, 1994, p. 14; Zegarra, 2017, p. 81). Some authors have argued that the censo started outdating at some moment between the 18th and 19th centuries and were replaced, progressively or abruptly, by other forms of credit, like the obligación, which fitted better the necessities and the spirit of the nascent bourgeois society (García Sanz, 1961; Peset Reig, 1982; Fernández de Pinedo y Fernández, 1985). Other historians have detected a long period of decline of the censo due to repeated non-payment of the pensions (Tello Aragay, 2004) or a sudden interruption in the use of the annuities due to financial repression (Milhaud, 2018).

It seems, however, that in several Spanish regions the formulæ of the obligación and the censo overlapped, even though there was a clear theoretical differentiation between both. That was the consequence of ambiguity or confusion due to polysemy and polyphony. Atienza gives some examples for the case of the early nineteenth-century religious communities in Aragon, which resorted to the obligación to tackle their financial necessities. According to her, “in some cases it was called censo what in reality was an obligación, surely due to the confusion and indeterminacy of the moment of transformation of the censo and transition between both credit modalities” (Atienza López, 1991, pp. 507-508). Deliberately or unintentionally, loans were disguised with the name of censo. Something similar can be observed in Majorca. In a cadastre of ecclesiastical assets which dates from 1828, the censo of the ecclesiastical institutions were called “censos por general obligación” or simply “general obligación”⁹. All the debtor’s assets were the collateral of the annuity, but the use of the term “obligación” could indicate that there was an ongoing evolution of the censo, a soft transition—perhaps unintentional—from old annuities to modern loans.

Some historians argued that the gap did not occur in the early 19th century, but in the last decades of the 18th century, in the case of the Crown of Aragon after the reduction of the usury rate (García Sanz, 1961, p. 302) or even earlier (Peset Reig and Graullera Sanz, 1986, pp. 116-127). The low yield of the censo would have led lenders to abandon the instrument and to use more profitable mechanisms. In fact, in the Aragonese territories the creditors resorted to formulæ like the debitorio (Marzal Rodríguez, 2001) and the venta a carta de gracia, but they were accused of using them as censo to circumvent the usury rate of the annuities. Thus, even though the alternatives to the censo were supposed to be temporary, the parties—mainly the lenders—used them as if they were perpetual. One of the main alternatives to the censo was the so-called empenyorament in Catalan and more widely in the Crown of Aragon venta a carta de gracia, whose translation might well be “reversible sale” or simply “pawning”. According to some authors, this instrument would be an intermediary stage between the annuities, which reflected the kind of social and economic ties of the ancien régime society, and the loans, which embodied the values of the liberal system which was about to rise. The difference between the censo consignativo and the venta a carta de gracia was that, whereas in the former the piece of real estate secured the payment of the annual rent, through the latter the creditor became the actual owner of the real asset, and as such he/she could freely sell, transfer, and lease it (see figure 3).

Figure 3. Comparison between the functioning of the censo and the venta a carta de gracia.

Sources: Own elaboration based on the sources cited in the text.

⁹ AGCM, X-580.
The reversion was possible thanks to the carta de gracia itself, the Aragonese (original) version of the Castilian pacto de retroventa. Actually, the carta de gracia was the clause of the censo contracts which made the annuities redeemable. That clause, which was already mentioned in the bull Sollicitudo pastoralis, was included in sale contracts, thus creating a new form of credit. The mechanism started to be used widely in some regions since the 1750s. The censo were very flexible in all their features except for one: the usury rate. Creditors had money available to lend but, due to the reduction of the maximum interest rate, the censo offered a very small profit margin. In several regions, the lenders resorted to alternative mechanisms which yielded above the usury rate. Yet those instruments, for instance the venta a carta de gracia, aroused suspicions and complaints among debtors and royal officers. The generalisation in the use of this formula revived the old debates about the exact nature of the censo. Was the venta a carta de gracia an actual sale or a disguised censo, hence subject to the usury rate?

That was precisely the centre of a decades-long debate which involved lenders, borrowers, municipal authorities, notaries, and Reales Audiencias in the Kingdoms of Aragon and Valencia, and the Consejo de Castilla. The landowners were pawning their fields to ecclesiastical institutions at very low prices –half or one third their real value– using the carta de gracia. After the sale, both parties signed a leasing contract by which the former owners became tenants of the pawned fields, having to pay annual rents above 5%. Some were paid in kind, and, due to the high price of grain, the rent could reach 7%. The new owners never dispossessed the tenants of the pawned land, as the latter could find someone else who would lend them the amount necessary to recover the pawned asset. Since they were never redeemed, many considered that those transactions were not reversible sales, but rather camouflaged censo, signed well above the usury rate. The fiscales and members of the Consejo de Castilla and the Reales Audiencias of Aragon and Valencia discussed the nature of each contract and the laws which operated for each instrument, as well as the economic consequences of using them. The municipal authorities and the notaries thought that the ventas a carta de gracia were being used as censo and that they generated depopulation, land abandonment, and unhappiness. The controversy, which cannot be examined in depth here due to extension limits, was not settled, although the differences between the two contracts were sanctioned by the royal authorities. In any case, the ventas a carta de gracia fell in disuse in the late 18th century. Atenza explains how they started to be redeemed, but she also underlines that they had allowed many farmers to raise funds and escape poverty and financial trouble (Atienza López, 1993, pp. 87–89).

In 1786, Manuel Sisternes, a fiscal of the Consejo de Castilla published his Idea de la Ley Agraria. Unlike many other authors who had accused the censo of producing idleness, depopulation, and misery (Vizcaíno Pérez, 1766; Pereira Iglesias, 1994), Sisternes considered that the annuities were crucial for agrarian investment and economic development. Money was being diverted from credit into more profitable businesses, like the Banco de San Carlos or the ventas a carta de gracia. Sisternes thought that the reversible sales were being used as a form to sequestrate real property, thereby generating poverty and discouraging agrarian investment. He put forward a harmonisation of the usury rate of all the financial instruments, to make the censo as attractive as the other products (Sisternes y Felíu, 1786, pp. 80–87). Although Sisternes’ assertion would confirm the theses of some authors who affirmed that the reduction of the usury rate was the cause of the decline of the censo, that is not the point here. What the arguments of the fiscal, together with the trials in the Aragonese Reales Audiencias prove is that the censo was not considered to be obsolete –on the contrary, some advocated for its recovery –and that in those territories where the annuities were unprofitable alternative formulae existed. Problems in credit, if any, were not provoked by the financial institutions, but by the use that the economic actors made of them.

The economic consequences of the use of those instruments, as well as the terminological and juridical debates about them will require still further comparative research. In any case, it does not seem that the formula of the censo became sclerotic and declined during the second half of the 18th century and the first decades of the 1800s, or at least not in all regions. Firstly, a transition from the censo to the obligaciones has been detected; whether it was intentional or not is something that future studies will have to clarify. Secondly, it has been proven that when the censo became less profitable, other financial instruments replaced it in some regions. Despite the attempts of some actors to equate the ventas a carta de gracia and the debtorios with the censo, the theoretical distinction between instruments was sanctioned by the royal courts. Nevertheless, in several regions the alternatives to the annuities were used as censo by combining credit and leasing contracts. The ventas a carta de gracia, which were supposed to have maturity, became in practice perpetual annuities. That would prove that the formula of the censo still enjoyed great acceptance, especially among lenders, and that the mechanism was deeply rooted in society. Like in the previous centuries, polyonymy and polysemy allowed economic actors to develop legal formulae to keep lending and borrowing.

4. One and multiple: The imperceptible financial (r)evolution

Great attention has been devoted to discerning the true nature of the censo, its licit character, and its effects upon the economy. The heated debates on those questions often prevented jurists, policymakers, and historians from seeing what was going on beneath. Originally, the censo had been a form of legally circumventing the strict rules of the Church against usury. The papal recognition of the censo, and especially of the censo personales, represented a true financial revolution both for the lenders –in many cases ecclesiastical institutions– and the borrowers, who gained access to credit at relatively low interest rates. The successive bulls of the pontiffs were accepted or rejected at the convenience of the rulers and users of the censo. By the early 16th century, the annuities were widely used and recognised. The censo was a hypernym, an umbrella term that encompassed many kinds of credit instruments: the contracts could be adapted to the necessities of borrowers and lenders just by including some clauses, always under the aegis of an institution accepted by everyone. In the 18th century, after the reductions of the usury rate in the Crowns of Castile and Aragon, the censo preserved

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10 AHPZ, Real Audiencia, Reales Órdenes, J/844, pieza 1.

Cómo citar este artículo: Ena Sanjuán, I. The imperceptible financial (r)evolution of the censo. Investigaciones de Historia Económica - Economic History Research (2021), https://doi.org/10.33231/j.ihe.2021.06.001
its adaptability but became less profitable. The lenders developed diverse solutions to that problem. Sometimes, they opted for the ventas a carta de gracia and used them as if they were annuities. The lenders also continued to take advantage of hypernymy and disguised the obligaciones with the name of censo. Like in the previous centuries, ambiguity was exploited for the sake of innovation: the ventas a carta de gracia and the censos de general obligación were some examples of the financial evolution which had started in the Late Middle Ages and would not end until the rise of modern credit. Old clauses and names were adapted to new necessities again, so the evolved financial mechanisms could not be condemned by civil and ecclesiastical authorities. Those processes of innovation will require further comparative research, though. The censo was subject of debate because of polysemey and polyonomy, because of ambiguity, confusion, and vagueness, but, by the same token, it constituted a revolution in credit in the medieval period and, until the modern era, a process of sustained financial evolution.

Acknowledgments

I would like to thank my colleagues of the Dissertation Writing Seminar at the EUI for their feedback, as well as Professor Regina Grafe and Professor Guillermo Pérez Sarrión for their valuable comments. One of the two anonymous referees deserves a special mention, as he/she made this article viable through inestimable criticism and suggestions. This paper has been written in the framework of a doctoral dissertation funded by the Spanish Ministerio de Ciencia, Innovación y Universidades through the fellowship program “Salvador de Madariaga”.

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