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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 *censo*s 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 *censo*s 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 en el siglo XIV 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 *censo*s. 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, haciéndolas imperceptibles. Varios ejemplos demuestran que la innovación financiera continuó hasta la aparición del crédito moderno. Por cuestiones de ambigüedad y confusión, deliberadas o no, los regímenes crediticios preindustrial y contemporáneo se solaparon. Así, la evolución continua de los *censo*s 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 hypernym that encompassed a broad array of credit contracts¹. Firstly, this paper is intended to offer a historiographical *aggiornamento* of the *censo*s, 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 *censo*s 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 (Zuijderdijn, 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 revolution². 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 (Pagarolas

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.

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.

i Sabaté, 2010). There was, in sum, a series of institutional developments and arrangements which constituted a true financial revolution in the Iberian territories of the Crown of Aragon.

One of the key elements of that revolution was the *censo*, also called *censal* in the Aragonese countries. This type of annuity was the legal solution to the strict restrictions imposed by the religious authorities on moneylending. This second section contextualises the emergence of the *censo*, describes the main elements of this credit instrument, and explains how successive popes recognised various types of *censos*. Even though the question of usury continued to be discussed during the whole early modern period and beyond, the *censo* allowed private individuals and public entities to lend and borrow without incurring crime, either moral or legal.

Since its very origins, in the midst of a society stifled by debts, the Church condemned usury. Christian Fathers refused any kind of moneylending not only for practical motives, like avoiding the progressive destruction of the free peasantry which supported the Roman Empire, but also because of moral reasons. According to the Holy Scripture, lending at interest attacked Christian charity. It is probably a passage from the Gospel of Luke which best summarises the position of the Church: “If you lend money to those from whom you expect repayment, what reward is that to you? Even sinners lend to sinners, and get back the same amount [...] lend expecting nothing back” (Luke, 6, pp. 34-35). For the Church Fathers, interest amounted to usury and therefore to sin. Yet moneylending did not disappear but, on the contrary, it expanded enormously during the Middle Ages. It is well known that Christians, exploiting a loophole in the Scriptures, used Jews to borrow. Credit was a much more widespread phenomenon than a handful of Jewish lenders, though, and the Church only could adapt its doctrine to the new times. Popes and canonists assumed the arguments against usury enunciated by Aristotle, who had said that money did not produce money (*pecunia pecuniam non parit*), as well as the view of Saint Thomas Aquinas, who asserted that the use of money could not be separated from its value, and therefore could not be used as a commodity. Nevertheless, invoking other classical arguments like the *lucrum cessans* or the *damnum emergens* (the ceasing profit and the risk the creditor took when he lent money), the ecclesiastical authorities established that some kind of contracts with low interests were licit indeed (Clavero Salvador, 1977, pp. 107-120; Placanica, 1982, pp. 185-195; Graeber, 2011, pp. 282-290).

These credit instruments were called differently in the regions where they appeared by the second half of the 13th century, namely the Low Countries, Southern Germany, Catalonia, and Valencia. They rapidly gained acceptance and spread across Western Europe –the rest of the Crown of Aragon, the Italian Peninsula, France, England– until they became the most common form of credit in many of these areas. By the late 14th century it reached Castile, although it would not be generalised until well into the 15th century (Tracy, 2003; Sánchez Martínez *et al.*, 2008, p. 125; Zuijderduijn, 2009, pp. 19-21; Rico Callado, 2020). In the Aragonese territories, the mechanism was generally called *censal*, an evolved form of the Latin *census* from which the Castilian and Italian *censo* are derived too. It is probably the extraordinary diffusion of the formula what makes it so difficult to define

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 *acrededor*, whereas the seller-debtor was called *censatario* or *deudor*. The pension appears in the sources as *pensión* or *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 sequestered 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 considered³. 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, *luición*. Moreover, the creditor could not force or press the debtor to redeem the annuity (Escriche, 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 1737, in the little village of Urmella (Aragonese Pyrenees), Tomás Solana and Teresa Bardají, 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 Bardají secured the annual pension on the house where they lived, so, in case of non-payment, the clergyman could take them to court and sequester their home⁴. 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 6 *sueldos* to the hospital

³ 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.

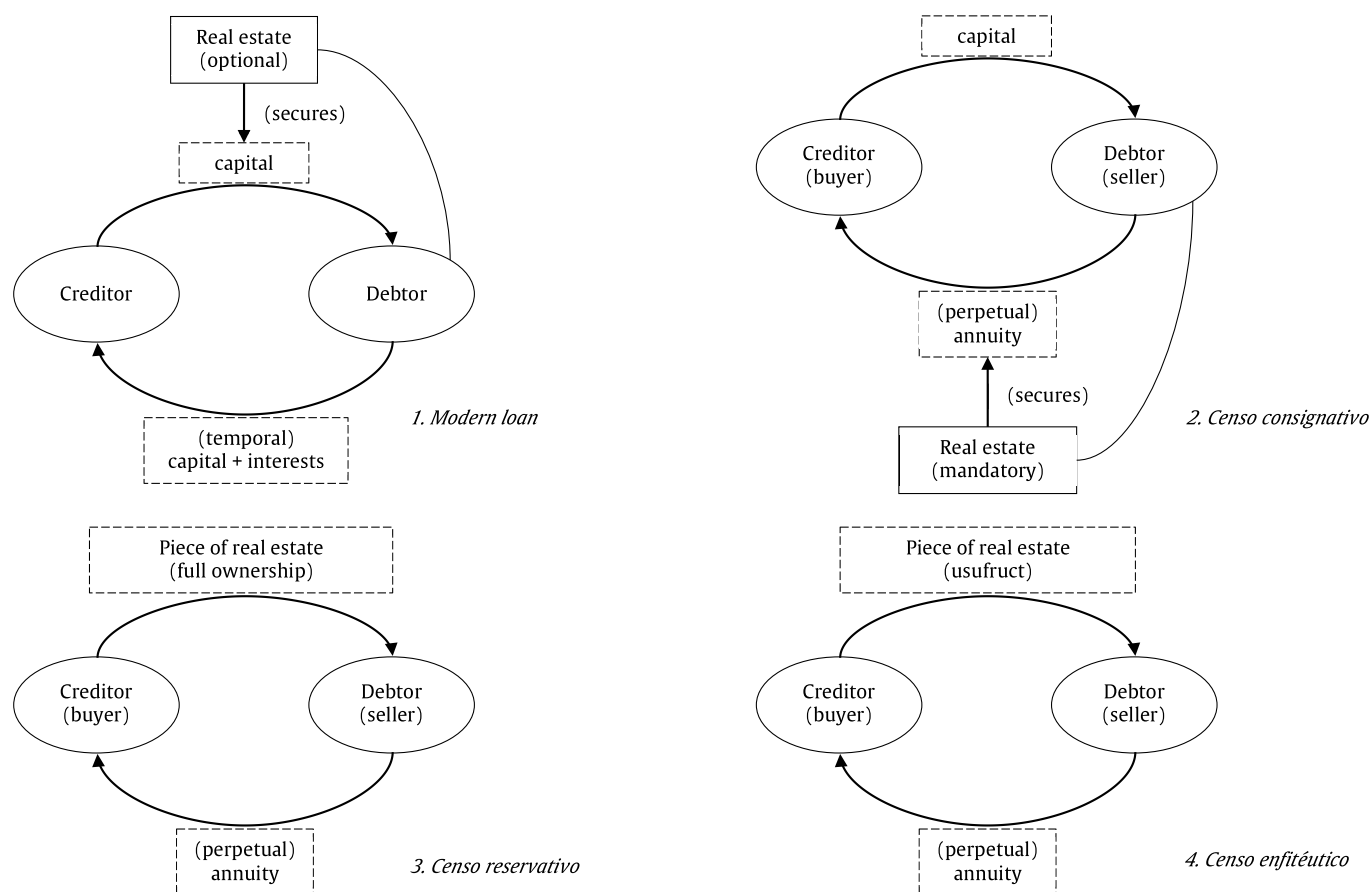


Figure 1. Functioning of modern loans and censos.

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

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 (*lluisme* in Catalan) to the hospital⁵. 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 sequestration⁶. 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 *censos* 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 *censos*– 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 exchanging only money, because that would have been illicit, but also a piece of real estate. This is why the house, field, or farm used as collateral was so relevant in the original

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 Socueva, 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 *Regimini 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 *censo*s. 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 enfiteútico*, 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 enfiteútico* he/she only acquired partial ownership of the piece of real estate, a sort of usufruct (in fact, it was called *dominio útil*); on the other hand, the creditor preserved the *dominio directo*, which might be trans-

lated 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 *censo*s 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 *censo*s, 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 *Sollicitudo pastoralis* in 1451. Apart from establishing the usury rate at 10%, the papal law enabled for the first time another kind of *censo*s 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 *censo*s not collateralised by a specific piece of real property –called *censo reales*–, but by the entire estate of the borrower –the so-called *censo 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 *censo 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 *Regimini 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 *censo personales*, whereas others criticised severely these annuities, accusing them of being flagrantly usurious. It should be

⁷ “[...] super domibus, possessionibus, et proprietatibus specialiter, vel etiam generaliter super omnibus bonis, redditibus, emolumentis, juribus, et rebus eorum” (Placanica, 1982, pp. 212-214).

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 rigorous position, but some lawyers and authors, more Catholic than the Pope himself, followed the bull to the letter and rejected any kind of *censo* 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 *censo* 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 *censo*. 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 polyonymy

The formula of *censo* was the result of continuous interactions between economic necessities, the solutions given to those necessities, and the doctrine of the Church against usury. Legal, political, and economic practices, however, varied widely from one region to another, and so did the annuities, hence the misuse of the concept *censo* and the heated debates about its exact nature, today and during the early modern period (Fiestas Loza, 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 *censo* is a hypernym, 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, *censo*, like *cesnal*, can refer to different types of instruments, and *cesnal* and *censo 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 period⁸. Apart from a focus on regional and local real-

ities, 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 *censo consignativo*) or real property with different degrees of ownership (*censo reservativo* and *censo enfitéutico*). Concerning collateral, the mortgage could be a specific real property (*censo real*) or the entire estate of the borrower, that is, all his/her assets and rents (*censo 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 *censo* 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 (*censo pecuniario*). Therefore, those paid in kind (*censo 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 *censo* 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 *irredimibles* (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 *censo*, 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: *censo*. In the medieval and early modern times, that variety went sometimes unnoticed de-

in the Consejo de Castilla about the reduction of the usury rate in the Crown of Aragon from 5% to 3% during the first half of the 18th century (Giménez López, 2015, pp. 146–157). Also, AHN, Consejos, libros 1.903, ff. 152v–193v., and 1.904, ff. 68v–89r. The debates have been almost ignored.

⁸ The nature of the *censos* was a key element in the long series of debates

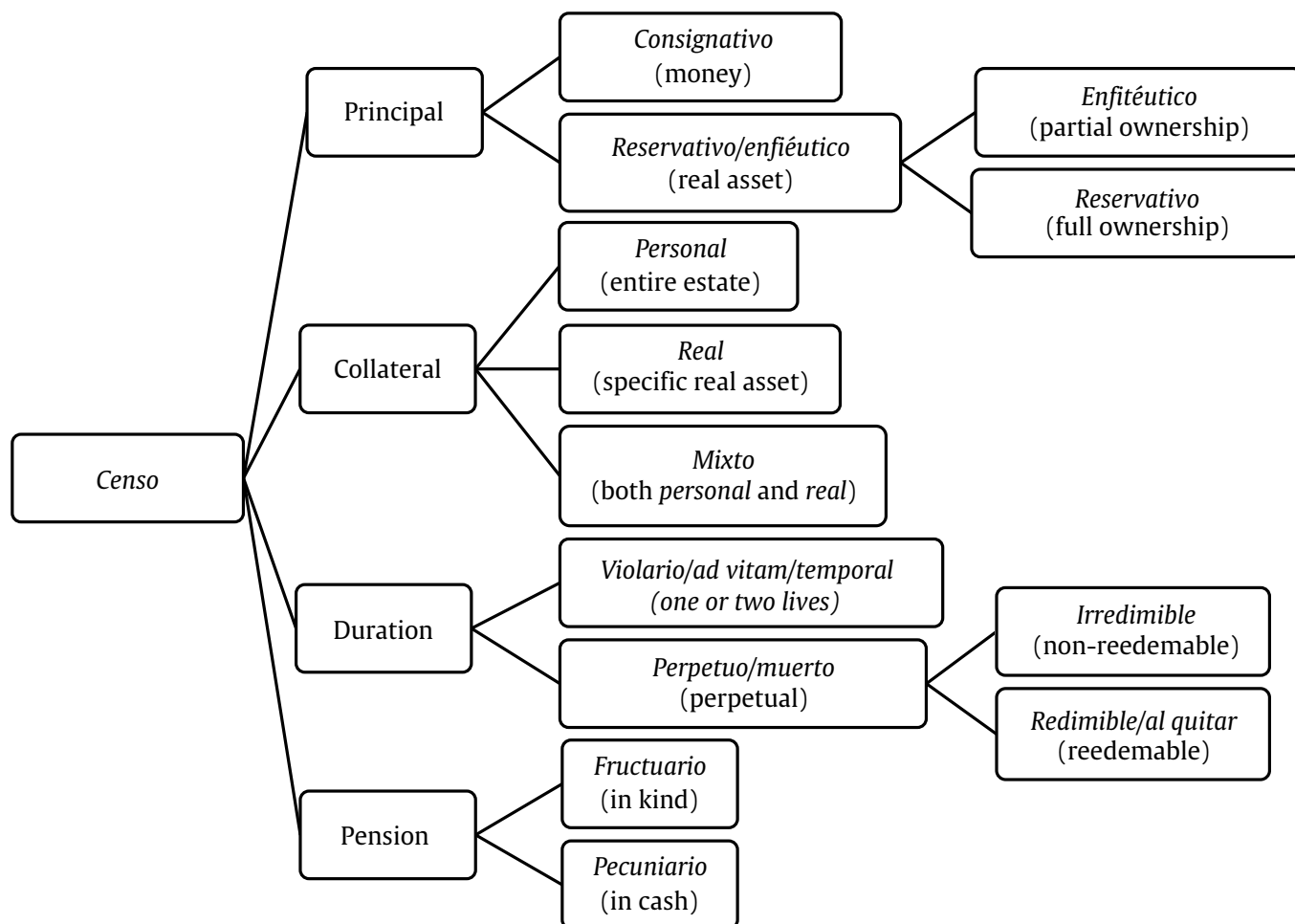


Figure 2. Variables of *censos*.

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

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. Com-

parative, 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.

Table 1Selection of standardised *censo* contracts

Denomination	Area	Principal			Transference fee (<i>luismo</i> or <i>fadiga</i>)	Duration			Collateral		
		Money	Real asset			Temporary	Perpetual		Real	Personal	Mixed
			Full ownership	Usufruct			Redeemable	Non-redeemable			
<i>Censo consignativo</i>	Crown of Castile	X					X	X	X		
<i>Censo reservativo</i>	Crown of Castile		X				X	X			
<i>Censo enfitéutico</i>	Crown of Castile			X	X		X	X			
<i>Censal/ censo 1</i>	Kingdom of Valencia			X				X			
<i>Censal/ censo 2</i>	Kingdom of Valencia			X	X			X			
<i>Censal/ censo 3 / cens mort</i>	Kingdom of Valencia	X		X				X	X		
<i>Censal/ censo 4</i>	Kingdom of Valencia	X		X			X		X		
<i>Censal/ censo 5</i>	Kingdom of Valencia	X		(X)			X			X	
<i>Censal 6 / censal muerto</i>	Kingdom of Aragon/ Crown of Aragon	X					X				X
<i>Censo ad vitam / violario</i>	Crowns of Castile and Aragon	X				X			X		
<i>Cens de nua propietat</i>	Principality of Catalonia	X		X	X		X	X	X		
<i>Cens de nua percepció</i>	Principality of Catalonia	X					X	X		X	
<i>Censo consignativo personal / censal mort</i>	Principality of Catalonia	X					X			X	(X)
<i>Censo enfitéutico or reservativo</i>	Kingdom of Valencia	X		X			X		X		
<i>Venta a carta de gracia / empenyorament</i>	Crown of Aragon	X		(X)		X			X		
<i>Debitorio / debitori</i>	Crown of Aragon		X			X					

Source: Own elaboration based on the literature and archival documents cited throughout the text. Both the *cens de nua propietat* and *de nua percepció* 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 *censos*, 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 *censos* started outdated 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 formulae 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 polyonymy. 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 *censos* of the ecclesiastical institutions were called “*censos por general obligación*” or simply “general obli-

gación”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 formulae like the *debetorio* (Marzal Rodríguez, 2001) and the *venta a carta de gracia*, but they were accused of using them as *censos* to circumvent the usury rate of the annuities. Thus, even though the alternatives to the *censos* 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 *empenyament* 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). Although the sale was consummated, the borrower preserved the right to recover the piece of real property by paying back the principal (Atienza López, 1993, pp. 76-78; Tello Aragay, 1994, 2004).

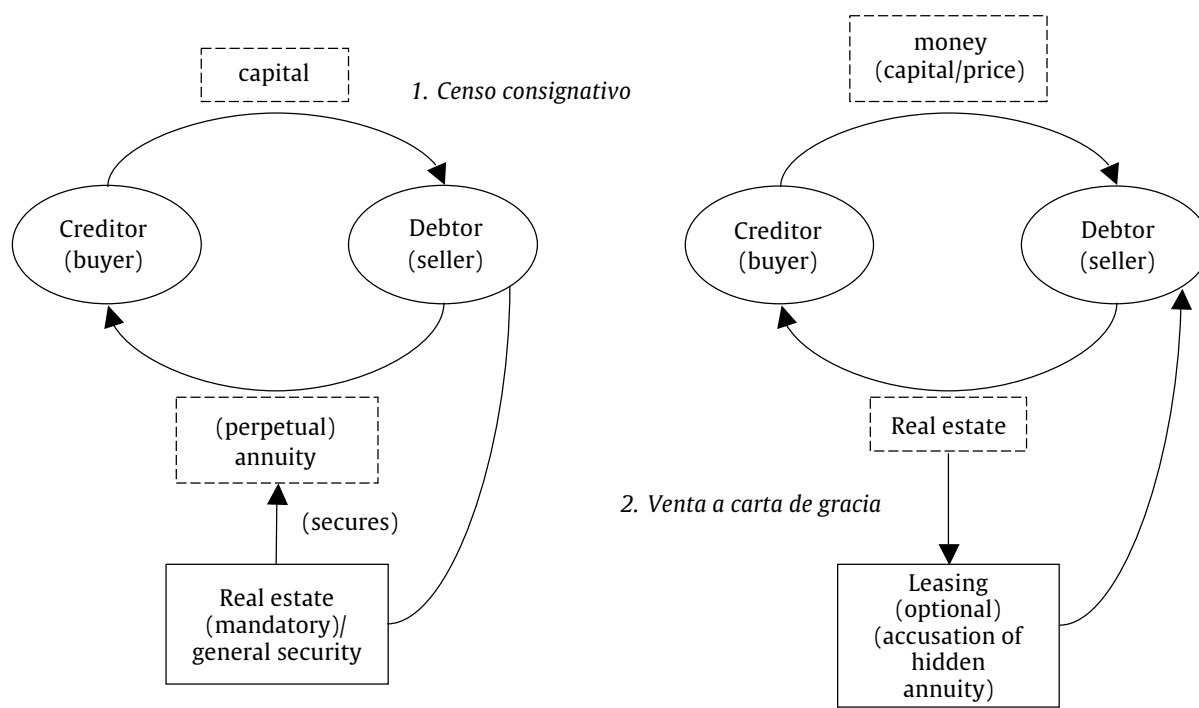


Figure 3. Comparison between the functioning of the *censo* and the *venta a carta de gracia*.

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*s 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*s 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*s, 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*s and that they generated depopulation, land abandonment, and unhappiness¹⁰. 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. Atienza 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*s 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

sequester 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*s as attractive as the other products (Sisternes y Feliù, 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*s 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 *debetorios* with the *censo*s, the theoretical distinction between instruments was sanctioned by the royal courts. Nevertheless, in several regions the alternatives to the annuities were used as *censo*s 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 moneylending. The papal recognition of the *censo*s, and especially of the *censo*s *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*s. 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

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

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 polysemy and polyonymy, 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.

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