

# AN APPROACH TO PUBLIC POLICY FOR URBAN HERITAGE PROTECTION IN COLOMBIA

## USING PATH DEPENDENCE (1954-2019)

APROXIMACIÓN A LA POLÍTICA PÚBLICA DE PROTECCIÓN DEL PATRIMONIO URBANO EN  
COLOMBIA EN CLAVE DEL PATH DEPENDENCE (1954-2019)

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El patrimonio urbano es una categoría del patrimonio cultural. Los centros históricos están protegidos por un marco jurídico que salvaguarda los valores que son objeto de la declaratoria correspondiente. El estudio de la política de protección del patrimonio urbano en Colombia ha estado limitado por la perspectiva clásica. En contraste, esta investigación realiza un estudio de caso sobre la legislación de conservación y los centros históricos declarados en Colombia como BIC del ámbito nacional, entre 1954 y 2019, desde el institucionalismo histórico. La metodología empleada es el Esquema de Aplicación del *Path Dependence* (EAPD), que se orienta a reconocer las relaciones entre variables, periodos y trayectoria del objeto de estudio, para demostrar la hipótesis de este trabajo: el surgimiento del patrimonio urbano y los mecanismos de protección se debe al agotamiento de la ley e ideas del patrimonio histórico. Las conclusiones preliminares evidencian cinco periodos de evolución de esta temática y enfatizan la dependencia mutua del patrimonio urbano y la política de protección, como también la reciente emergencia de la participación ciudadana, la pérdida de flexibilidad y versatilidad del marco legal con manifestaciones de irreversibilidad en la conservación del patrimonio urbano.

**Palabras clave:** patrimonio urbano, *path dependence*, política urbana, protección.

Urban heritage is a category of cultural heritage. Historic centers are protected by a legal framework that safeguards the values that are the object of the declaration. The study of urban heritage protection policy in Colombia has been limited by the classical perspective. In contrast, this research performs a case study on conservation legislation and the historical centers declared in Colombia as Assets of Cultural Interest (BIC, in Spanish) between 1954 and 2019 from historical institutionalism. The methodology used is the Path Dependence Application Scheme (EAPD, in Spanish), which seeks to recognize the relationships between the variables, periods, and trajectory of the object of study; to demonstrate the hypothesis of this work, namely the emergence of urban heritage and protection mechanisms is due to the debilitation of the law and ideas of historical heritage. The preliminary conclusions outline five periods and emphasize the mutual dependence of urban heritage and protection policies, as well as the recent emergence of citizen participation, and the loss of flexibility and versatility of the legal framework with manifestations of irreversibility in the conservation of urban heritage.

**Keywords:** urban heritage, path dependence, urban policy, protection

## I. INTRODUCTION

Urban heritage in Colombia comprises neighborhoods, sectors, architectural ensembles, historical centers, and small towns with homogeneity and authenticity values, declared and defined under the category of Heritage Asset (BIC, in Spanish) within the national, departmental, district, or municipal sphere. These are protected by urban, architectural, and environmental conservation regulations; formulated, approved, and adopted by the local authority with citizen participation in the last 25 years. The urban heritage protection policy in Colombia has been addressed in a disjointed fashion, using studies that focus on the generation of new legislation (Salazar, Cortés & Niño, 1989), the administrative-technical balance (Salazar, Niño & Téllez, 1996), understanding the role of historical centralities in the contemporary city (Beuf & Martínez, 2015), chronological accounts of heritage (Escovar & Cárdenas, 2018), the approach to urban renewal and globalization (Yory, 2019), and explorations from urban historiography (Mejía & Martínez, 2021). Some works present a balance with broken-down contributions to identify the institutional decisions that have shaped the urban patrimonial corpus and its corresponding public protection policy (Barbosa, 2001).

Urban heritage and public protection policy are legal creations (Melé, 2006). Through juridization, a specific legal status is granted to singular buildings and historical sectors as an exclusive way of protecting historical heritage. In this way, the State, on behalf of society, recognizes the architectural and urban values declared as BIC (Melé, 2015). The protection policy promotes and regulates the revitalization of urban areas, the strengthening of territorial management (Yory, 2019), and citizen participation as conservation strategies.

The protection legislation determines actions aimed at declaring new historical centers and creating institutions, structures, and mechanisms that reinforce the sense and presence of heritage in the social collective (Sydow, Schreyögg & Koch, 2020). "Political institutions" are understood as interconnected rules and routines that define the right actions — in terms of relationships between roles and situations — (Sorensen, 2020), where two main events emerge: eras characterized by their relevance and solutions to challenges within the functional framework of politics (March & Olsen, 1989). The linking of protection legislation has promoted the conservation of urban complexes but has also triggered urban development, an irreversible effort for the conservation of urban heritage.

The protection of urban heritage is subject to the temporality of the protection policy, the administrative structure, and the established management mechanisms. Faced with this, this work identifies the temporal trajectory between urban heritage and protection jurisprudence to determine how the connection of legislation and planning and management instruments induce the protection and irreversibility of conservation. To this end, laws, decrees, and resolutions issued between 1954 and 2019 for the declaration and protection of urban heritage are analyzed, with the aim of specifying internal and external variables that are subsequently broken down into three dimensions and submitted to the Path Dependence Application Model (EAPD, in Spanish).

## II. THEORETICAL FRAMEWORK

Latin American states began to acknowledge and include urban heritage in public policies in the mid-twentieth century. The materialization of the *historic center* as a center of political and ideological power, the city builder, and the object of urban policies in Latin America (Carrión, 2000), was achieved by overcoming theoretical and practical limitations, achieving international cooperation, and building projects in central heritage areas for the consolidation of an interdisciplinary and multi-institutional debate scenario (Coulomb, 2015).

The emergence of legislation to safeguard national monuments in Latin America emerged in the 1950s. Then, in the 1970s, the interest of authorities migrated towards the conservation of heritage to (1) consolidate it in a dispersed and growing manner until placing it as an object of urban policies at the beginning of the twenty-first century (Delgadillo, 2008, p. 818) and, (2) align it to protection, nuanced by the variety of cultural heritage intervention alternatives (Gutiérrez, 2009).

Currently, urban heritage has problems related to the trajectory, trend, and application of protection policies (administrative structure and management mechanisms). The understanding and explanation of the approach proposed by historical institutionalism are considered a research method that focuses on the creation, persistence, and change of institutions over time, known as "*path dependence*"<sup>3</sup> and are used to reaffirm central ideas where: (1) specific time and sequence patterns matter; (2) a variety of social outcomes may be possible from similar starting conditions; and (3) major consequences may result from relatively "small or contingent" events (Pierson, 2017, p. 712).

3 Translated as dependent path or dependency pattern.



Figure 1. Effects of irreversibility on the protection of urban heritage (a) San Gil, (b) Socorro, and (c) Bogotá, D. C. Source: Preparation by the author.

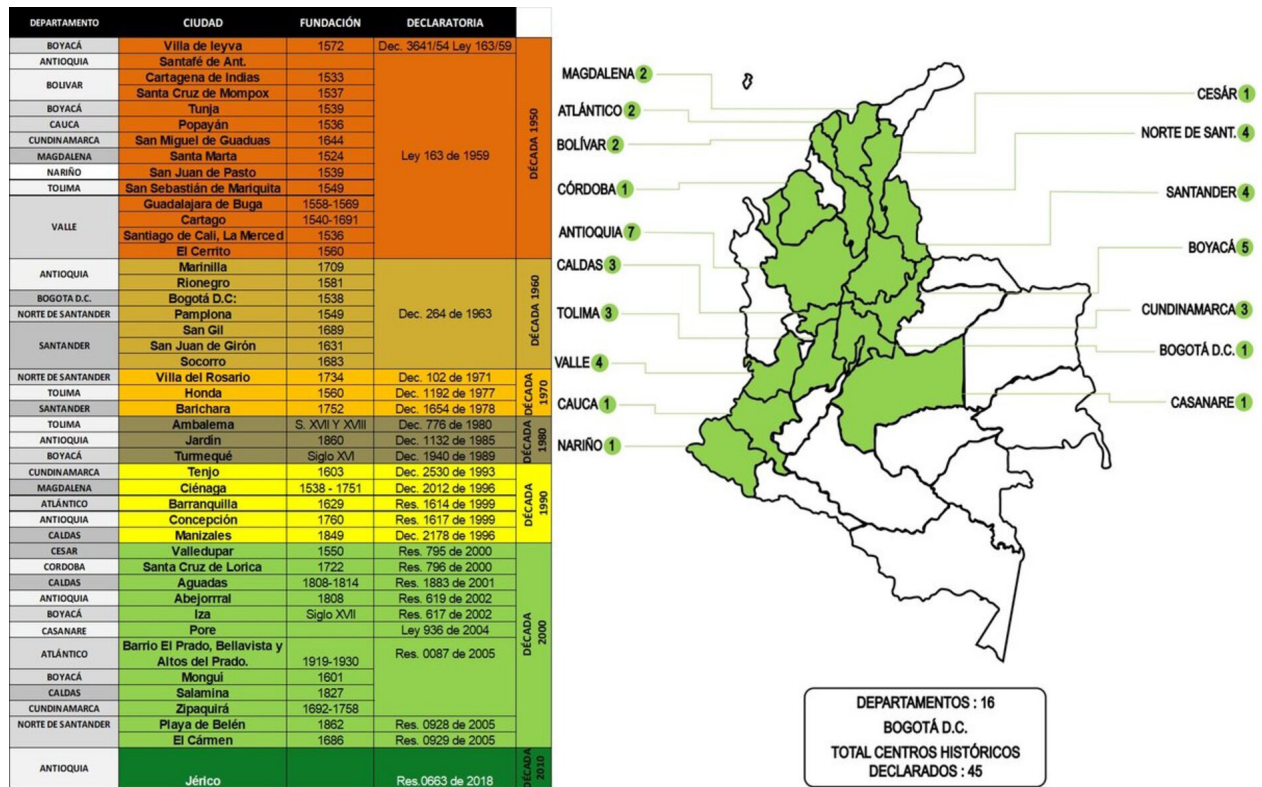


Figure 2. Declarations by decades and localization of urban heritage in Colombia. Source: Preparation by the author.

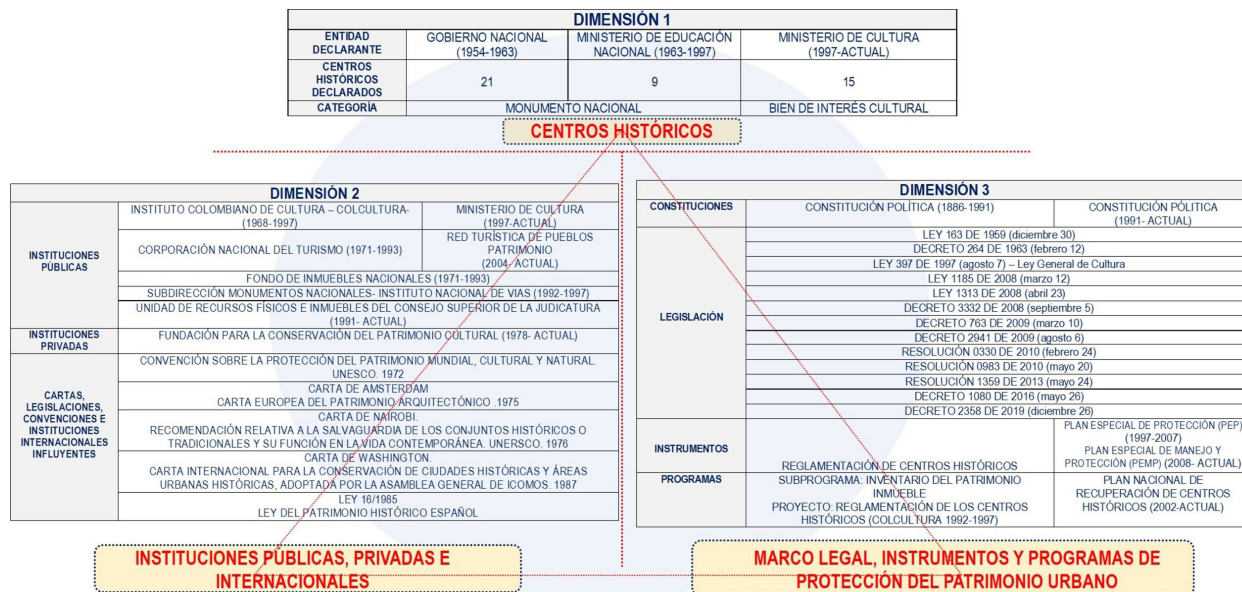


Figure 3. Dimensions and determining variables of urban heritage and protection policies (1954-2019). Source: Preparation by the author.

*Path dependence* establishes courses of action in institutions, that are virtually impossible to reverse and difficult to change over time, hence, small choices at the beginning can have significant long-term impacts (Sorensen, 2015; Pierson, 2017) and generate irreversibility (Figure 1) in the trend of a decision (Vergara, 2020). Current and future institutional results are closely linked to particular events of the past (Arthur, 1989; Trigo, 2015), a recurring feature where the concept arises.

The starting point assumes the creation of urban heritage as a legal fact (Melé, 2015) where the State recognizes unilaterally selected historical areas (Figure 2), to highlight values of collective social representation and induce mechanisms with the capacity to motivate collective representation (Melo, 2020). Historical institutionalism, through the EAPD, aims at identifying the effects of positive feedback on the urban heritage protection policy, which offer sound conceptual support and tools to analyze continuity and change in public policies (Sorensen, 2020).

### III. CASE STUDY

The study carried out focuses its analysis on the identification of the progressive issuance in Colombia of legislation, institutions, programs, and instruments dedicated to the urban heritage, comprising 45 historical

centers declared as BIC nationally, between 1954 and 2019. All of them constitute, in this framework, determining variables that have been arranged in three dimensions (Figure 3).

Based on Law 163 of 1959, the streets, squares, squares, piazzas, historical buildings, common land, and houses within the perimeters of towns from the 16<sup>th</sup>, 17<sup>th</sup>, 18<sup>th</sup>, and 19<sup>th</sup> centuries were declared historical and national heritage. Starting from Law 397 of 1997, on the principles of decentralization, autonomy, and citizen participation, the declaration and management of cultural heritage for registered urban heritage was transferred to regional entities. The declaration of the BIC is a protection mechanism established by the Culture Law that includes the assessment of historical, aesthetic, and symbolic aspects, covered by a special protection system and the formulation of a protection plan.

The declaration of urban heritage and the protection policy are made from three dimensions: *dimension 1*, dedicated to the heritage creation process, comprising the declaring entity, number of historical centers, and declaration category; *dimension 2*, groups the administrative structure (public, private, or international); *dimension 3*, contains the legislation, planning and management instruments along with development programs for historical centers.

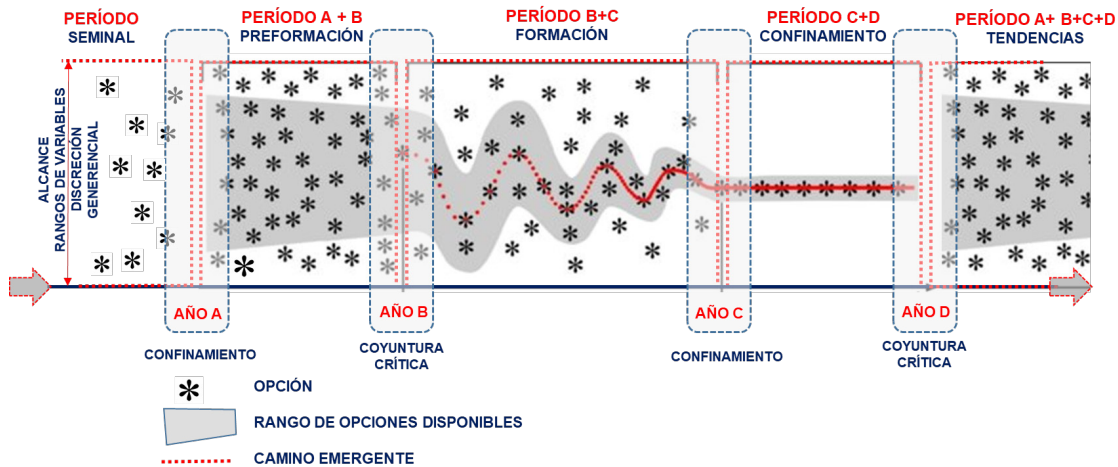


Figure 4. Path dependency application outline. Source: Preparation by the author based on Sydow et al. (2009).

#### IV. METHODOLOGY

*Path dependence* (EAPD) is used to establish the temporality of urban heritage and the protection policy through variables. This subdivides a process into periods governed by several causal regimes. It establishes varied scenarios for the interpretation of institutional action and decision-making (Sydow, Schreyögg & Koch, 2009). It focuses its concerns on the fact that history has a dependent and continuous trajectory in political processes, where an event that occurred in previous stages limits the range of possible events in later stages (Tilly, 2006; Trigo, 2015).

According to Sydow et al. (2009), the EAPD (Figure 4) illustrates the connection of variables in periods, by segregating determining structural conditions such as linearity and trajectory dependence into a successive temporal chronology (moments identified by differential phenomena in the transition between them). The time sequence denotes a beginning and an end in a constant, successive, and evolutionary way. It provides meaning to the dynamic nature of political, legislative, and social decisions in a cumulative process on a specific roadmap called path dependence. It emerges as a phenomenon of self-reinforcement that leads it to an irreversible state of total inflexibility or confinement (Sydow, 2020).

The *seminal* period is characterized by options with no available range. It generates decisions focused on forming a structure to stabilize situations and events in recognizable and repetitive patterns, through the interdependent actions carried out by

multiple actors (Sydow et al., 2020). The ideas that arise are linked to new forms of association. They seek mutual recognition and integration of larger scales to legitimize State actions through the emergence of common dialogs and agreements on diverse issues conducive to the creation of efficient, responsible, and legitimate routines (Sorensen, 2019). The transition of the *seminal* period to one of *preformation* is evident from an action called *confinement*. This occurs at a specific moment motivated by an unpredictable, efficient decision, a precursor of new trends (Monnet, 2020). The options from eras linked by their thematic, ideological, and functional connection contribute to the breadth of the range of action.

The *preformation* period is framed within a defined time span, characterized by a sound range of available options, with a broad field of action. This gives rise to a condition of unpredictability (Sorensen, 2020). The decisions made during this period trigger a self-reinforcing effect that narrows the range of options and stimulates a critical juncture at the end of the period (Trigo, 2015), namely, path dependence emerges. The critical juncture comes from creation factors. The basic reasoning conceives a situation of change based on discontinuities or interruptions of social processes that tend to become founding moments of new institutions and political structures (Sydow et al., 2020). In the words of Pierson and Skocpol, it means that “strictly defined path-dependence processes involve a clear logic”, regarding the critical juncture results and “unleash feedback mechanisms that reinforce the recurrence of a particular pattern in the future” (2008, p. 13).

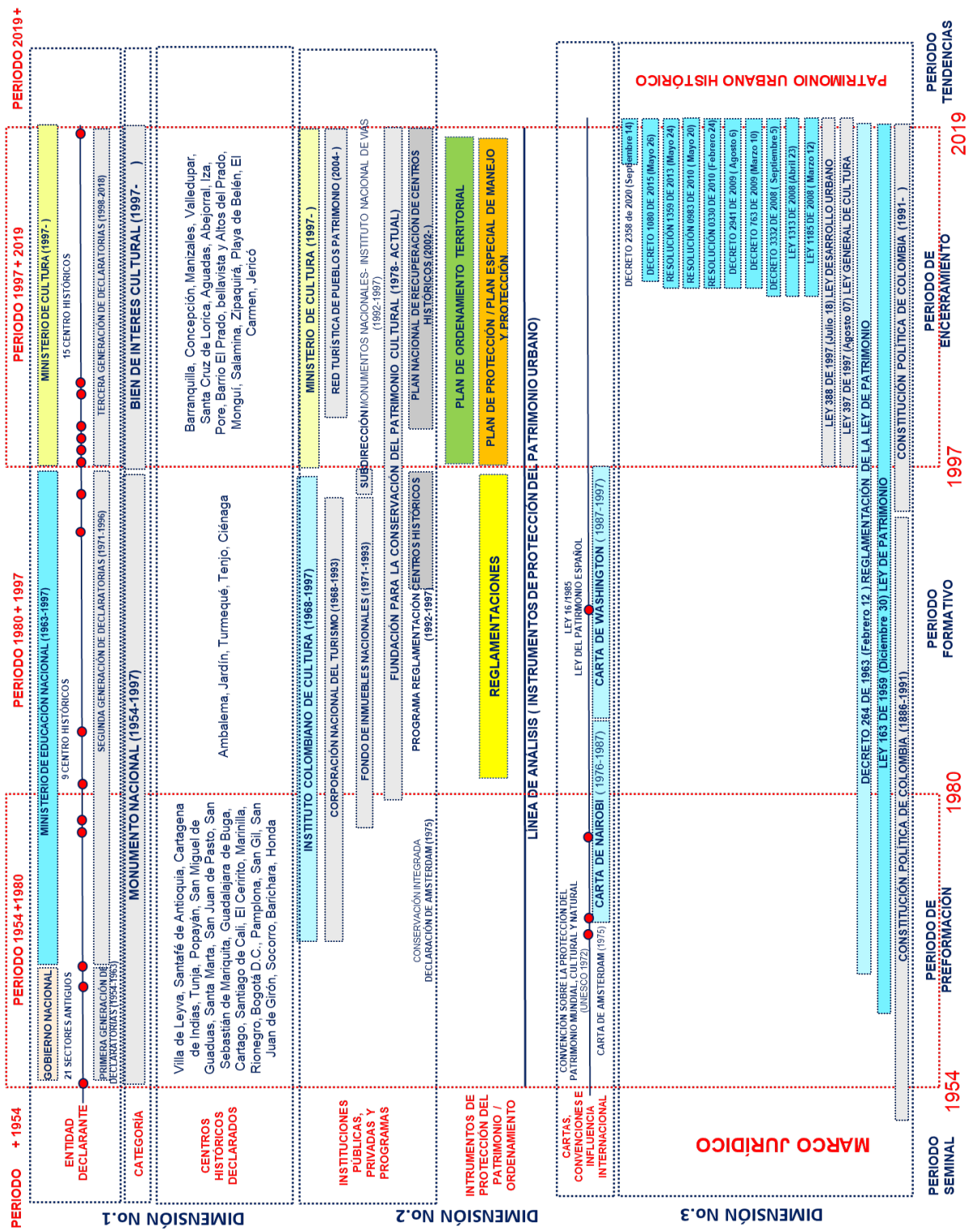


Figure 5. Determining variables in the EAPD and protection policy. Source: Preparation by the author.

Time is the main star of the *formation* phase in two senses: (1) the phenomena that occurred at the beginning of the period apply pressure where the desired result stimulates the transition to another stage through a confinement action; (2) the probability of the emergence of the dominant action pattern becomes increasingly irreversible, the range of options is reduced, and progressively it becomes difficult to reverse the initial action where it appears that the path dependence evolves (Sydow *et al.*, 2009). The sum of the actions in the process of transition to the *confinement* period eventually leads to a blockage. The dominant decision pattern takes on a deterministic character, the choice of a particular action is transformed into a predominant mode and loses flexibility, and remains tied to a path, even new participants in this field of action cannot refrain from adopting it in their behavior (Sydow, 2020).

A new critical juncture has an impact as a creative factor for the emergence of discontinuities that originate tendencies to new options, starting from decisions of different levels. They trigger institutional persistence with renewed forms of management, transfer, or decentralization of attributions, conceptual shifts, and changes in regulatory mechanisms, hence, a renewed range of available options enhances the present and future fields of action.

## V. RESULTS

The arrangement of determining variables and historical centers in the EAPD facilitates the finding of five periods (Figure 5) in urban heritage legislation. The seminal stage (1918-1954) laid the grounds for the State structure to promote the valuation of the real estate heritage through Law 48 of 1918, by which the forts, sculptures, paintings, and ornaments of the colonial period, pre-Columbian monuments, and public buildings are declared as national historical heritage. The National Directorate of Fine Arts attached to the Ministry of Public Instruction is created and, in addition, the destruction, repair, and ornamentation of property are prohibited without prior authorization (Salazar *et al.*, 1989).

The declaration of public property for places of singular beauty, antiquity, and tradition in the mid-twentieth century triggered a sensitivity oriented to safeguarding and encouraged property restoration and interest in the declaration of monuments in different expressions of nationality (Gutiérrez, 2009). During the dictatorship of Rojas Pinilla, the municipality of Villa de Leyva was recognized as a national monument (1954). The agreements derived from the Seventh Pan American Conference (1933) motivated the

issuance of Law 163 of 1959 (on the defense and conservation of the historical and artistic heritage and monuments of the nation) behind the creation of the National Monuments Council.

The creation of the Colombian Institute of Culture (Colcultura) in 1968, attached to the Ministry of Education, sought to decentralize the administration of culture, stimulate interest in heritage from academia to promote research, train professionals, and create repositories of cultural interest real estate inventories in the different regions of the country (Salazar and *et al.*, 1989; Escovar & Cárdenas, 2018). The promotion of events and scenarios for dialog and ideological exchange around the recent dimension of culture and the adaptation of the concept of cultural heritage are contributions of Colcultura. At the end of the *preformation* period (1954-1980), an old urban sector was regulated (Cali), and the first declaration of a historic center was made in 1980 (Ambalema). 21 old sectors were also declared as such.

The *formative* period (1980-1997) accentuated the urgency of updating heritage-dedicated legislation. Colcultura, with the support of UNESCO, fostered a national dialog between public and private actors on the “Cultural policy for historical centers and immovable heritage” in 1989, the origin of the General Culture Law (1997). With this document as a reference and after restructuring Colcultura in 1990, the Historical Centers Regulation Program emerged (1992-1997). The “Handbook for the regulation of old urban sectors” (1991)<sup>4</sup> provides instructions for structuring conservation from the cultural standard applied to 17 historical centers that pass the formulation, approval, and adoption process. The institutional exhaustion, not only of culture but of the State and society, led to the passing of the Political Constitution in 1991 (Melo, 2020), with a conceptual twist regarding cultural heritage and territorial planning formalized through the issuance of laws 397 and 388 in 1997 — General Culture and Urban Development, respectively.

These laws are the transition between the formative period and the start of the confinement period (1997-2019). The Special Management and Protection Plan (PEMP, in Spanish) and the Territorial Planning Plan (POT, in Spanish) are guarantors for safeguarding cultural heritage and urban development. While the former promotes the conservation and revitalization of the historical center, the latter deals with the remaining urban area and rural areas considering development aspects (municipal-regional) and the search for socio-economic well-being. The formulation, approval, and adoption of the PEMP fall within the National Plan for the Recovery of Historic Centers (PNRCH) created in 2002, with 31 approved plans out of a total of 45. The POT, which is mandatory for municipal entities and cities, reaches 100% and is in its second version.

4 The manual is a product of the City and Historical Centers project promoted by Colcultura and Unesco UNDP (1988-1990).



The transition of a National Monument to the BIC outlines the linking of isolated legislation to a public policy for the protection of urban heritage after two decades, where Decree 2358 of 2019 represents the critical juncture that opens the door to new trends (Sydow *et al.*, 2020) of cultural heritage. The recognition and treatment of cultural landscapes, the updating of the PEMP structure, and the conceptual adoption of Historical Urban Heritage (PUH, in Spanish) confirm the path dependence of heritage under construction. The latter legislation introduces the *trend* period (2019-present), where the PNRCH faces the challenge of finalizing the formulation of the PEMP, assuming the application of the PUH, and integrating it into the institutional routine that is maintained, reproduced, renewed, or transformed on the fundamental features that persist in its existential sequence (Vergara, 2020).

## VI. DISCUSSIONS

The emergence of historical centers and protection legislation falls into two periods: (1) pre-formative and (2) formative (1954-1997). In the former, the import of foreign concepts, policies, and referent institutions (designed for other socio-geographical, cultural configurations, and state structures) are the cause of chaos and mismanagement (Granes, 2022) of historical heritage, predominant for 43 years. In the formative period, arise the issues generated by cultural heritage, the reflection from academia, and the contribution of international entities through charters and conventions that intervene in the transition from the National Government (1954-1963) to the Ministry of Education (1963-1997) as a declaring entity and administrator of historical heritage. The problem of these periods lies in the limitations of the Heritage Law, its lack of versatility due to the rigidity of its postulates, the promotion of individual safeguarding of historical heritage, and the absence of safeguarding mechanisms.

The origin behind the need to protect historical centers in the mid-80s emerges from the absence of management techniques and homogeneous mechanisms in the Heritage Law (positioned by international influence and dissemination, especially UNESCO). The procedure for declaring historical centers is freed from colonial heritage (Fonseca, 2019) to justify republican ideas in conceptual and scientific methods closer to a modern country in search of its symbols of identity. This shift in the State vision permeated social structures: the passer-by went from being a passive observer of the national monument to a participatory builder of the BIC within the scope of their territory.

The link between the production of urban heritage and the protection policy emerges from two trends: the first, isolated legislation for historical centers representative of an elitist society of the mid-twentieth century —national monuments - that is transformed by the extenuation

and loss of conceptual and operational strength; and the second, a concept of cultural heritage that includes the social collective, recognizes popular manifestations and expressions in different categories for the heterogeneous construction of the nationality (Melo, 2020; Granes, 2022), and introduces citizen participation under a protection policy located in the confinement period (1997-2019); this is consistent with the needs of contemporary management. From positive feedback comes the creation of urban heritage and protection legislation (Melé, 2015).

## VII. CONCLUSIONS

The EAPD is an appropriate mechanism for the transdisciplinary analysis of complex scenarios that require the integration of temporal variables of diverse origins. The analysis is not intended to generalize about a single approach to the problem identified, but rather presents a resource that is little used and apt for the case study. The path of urban heritage and the public protection policy in Colombia is governed by five periods.

The protection of urban heritage emerged in the 1990s, due to the debility of Law 163 of 1959. The individual expressions of historical heritage declared as national monuments are transformed into thematic groupings associated with the concept of cultural heritage, comprising material and intangible manifestations recognized as BIC in the territorial scale that recognizes them (national, departmental, and municipal). The public protection policy emerges and begins its construction after 1997, regulating the declaration and protection procedures of the BIC through the PEMP (an instrument that combines the cultural standard -the regulation-, and management from the international charters and methodologies of UNESCO and Icomos).

The path of the protection and urban heritage policy is no more than three decades and is based on two ideas of a nation: (1) the agreements of the Seventh Pan American Conference of 1933, still persistent due to the dependence on the nationalist phenomenon; and (2) the positive feedback between them that validates the concept of *path dependence* due to the importance of the time and sequence patterns within the constitutive relationship of its current structure. This has generated effects of irreversibility in the conservation of the historical centers declared as BIC, its effectiveness being questionable in the face of the state of recently declared historical areas where protection actions registered within early citizen participation and territorial planning are evident.

In conclusion, the conservation of historical centers between 1954 and 2019 has shaped urban heritage and protection mechanisms simultaneously through initially isolated legislation and, in recent decades, through a large volume of

legal acts dedicated to cultural heritage. The consolidation of a public policy for the protection of urban heritage has not yet been identified, although it is possible to show its existence linked to the idea of defending the historical heritage present in the sense and the notion of the protection of historical centers in the complex contemporary urban dynamics.

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