

## FILM HERITAGE AS CULTURAL PATRIMONY

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Cinema is widely understood as having a two-fold existence and significance. On the one hand, from an economic perspective, it is considered a form of entertainment, an industry and business. It is logical that the commercial aspects of this form of creative expression should be governed by appropriate copyright and intellectual property laws.

On the other hand, cinema is clearly one of the key realms of artistic and cultural expression to develop in the twentieth century. Countless cinematic works are now considered part of a common international patrimony “of the people” worthy of preservation and broad public access for enjoyment and scholarly study. Because of the cultural and artistic value of cinema, there are legislative tools (such as the “fair use” principle and exceptions to copyright laws) aimed at fostering free access to this film heritage.

Broadly speaking, this second principle (public access) is not promoted and protected to the same degree as the first (copyright), despite all the formal statements by international bodies such as UNESCO and the European Union. In this regard, there is serious imbalance between the way in which books and other media are treated under the law as compared to works of cinema. There is almost no country without a national library where the printed word and recorded sound are made available for access, loan, and – within specific limits – reproduction for bona fide study.

Of course films must be experienced in a appropriate context, the cinema, but even taking into consideration broader access on an individual basis (such as DVDs), the situation with cinema is not quite the same. National and international legislation protects the rights of producers and filmmakers but the public right of access to archival holdings is left in limbo encumbered by a multitude of restrictive legal provisions and ill-defined regulations that discourage access and, in some cases, put those who try to preserve cinema heritage outside the law.

The same copyright laws that serve to protect owners' rights and to regulate the commercial exploitation of films available in cinemas, on television, through cable and home video, are *de facto* preventing public access to that part of the moving image heritage where in fact financial profit is no longer a possibility — and impede the efforts of archives to preserve the cultural heritage of cinema, television and radio. The majority of all the films produced in the 20<sup>th</sup> century are no longer publicly accessible.

As a consequence, films held by archives and museums remain unseen, thus marginalizing a large part of the film culture that emerged over the course of the past century (and of modern culture therefore). The danger is that the public will become oblivious to the importance of cinema as an historical phenomenon and to the intrinsic value of the cinematic experience. A film is more than a mere narrative sequence of images and sounds (what is defined in today's corporate language as “content”). It is also, and primarily, a relationship between moving images and their interpretation by a collective audience. This audience operates in a context based on specific spaces and rituals of vision, with all their technological and psychological implications (the context also includes materials used for documenting and promoting films). A film experience

reflects the degree of historical awareness shared by the members of the public, their conscious or unconscious knowledge of genres, styles and modes of production and the social and cultural environment in which they live. The loss of the notion of “film experience” deprives cinema of this context, diminishing its status to the level of “content”.

In real terms, limiting public access to film heritage through highly restrictive laws has serious consequences:

- it prevents students and educators from seeking legitimate ways to experience cinema and its history, thus encouraging the viewing of films by illegal means;
- it endangers the quality of the film experience by encouraging public access through substandard versions, formats, and spaces where the original intent of the artists is ignored or undervalued.

It is imperative to recognize the distinction between the two aspects of cinema as outlined above, in terms of legislation and the public’s right to access. After they have lost their commercial value, films should be primarily considered as cultural objects and as resources for scholarly research and objects of public enjoyment, especially after the responsibility for their continued existence has become the responsibility of moving image archives and museums. The public policies and museum practices in place with respect to other art forms and cultural objects should apply also to cinema.

This should be achieved in institutions where the film experience can find its fullest expression through retrospectives, permanent exhibitions of historical artifacts, access to documentation and educational projects. While these activities are already taking place in many institutions, their progress development is severely hampered by overly restrictive laws that limit public access to works of cultural heritage that have outlived their original commercial intent. A different approach would also have the advantage of cultivating new audiences for film, therefore helping the commercial sector as well.

It is possible for the interests of motion picture rights holders and the public need for access to cinema heritage to co-exist. The non-profit endeavors in film archives and museums must be encouraged and supported as they have been for a long time in art museums. Through the recognition of the film experience as a cultural object, greatly enables film archives in their efforts to fulfill their core mission: to preserve, restore, and show film as cultural heritage according to the highest curatorial and museum standards.