

The Enlightenment, Human Rights and Public Participation in Celtic Heritage Management



Immanuel Kant (1724-1804)



French Declaration (1789)



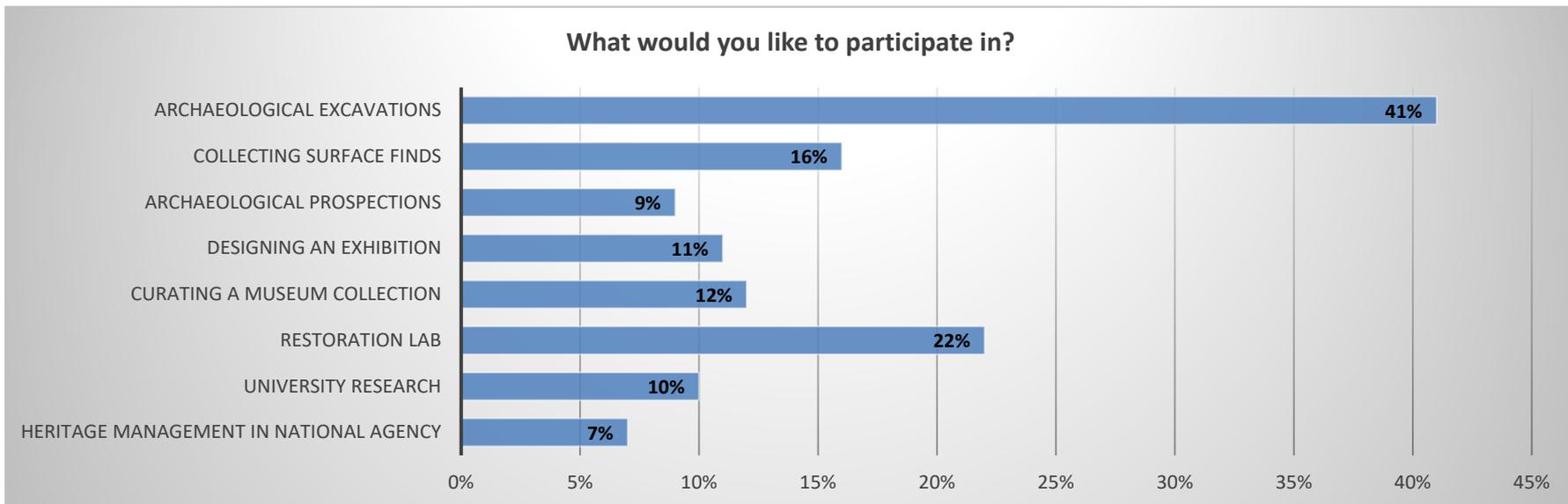
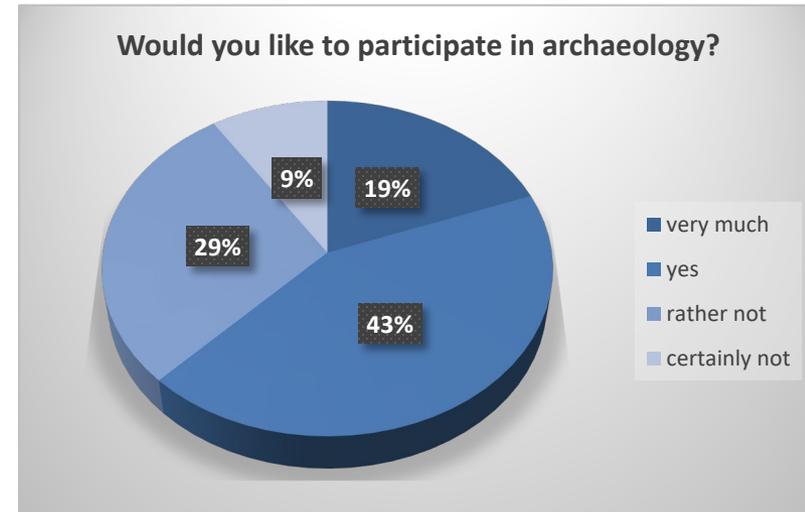
UDHR (1948)

Public Participation in Celtic Studies

- a narrow, underdeveloped and difficult field
 - hardly possible in **Celtic linguistics**
 - very few ordinary members of the public have sufficient mastery of Celtic languages to engage in this
 - let alone will be interested in such ,dry‘ work
 - quite difficult in **Celtic literature**
 - similar issues regarding language
 - people enjoy literature, but only very few wish to study it
 - unproblematic but not much valued in **Celtic history**
 - anyone may, anyone can, many do (but only few well)
 - hardly anyone in the field takes notice of such work
 - e.g. esoteric ,studies‘ and works of ,alternative‘ historians
 - popular but problematic in **Celtic art and archaeology?**
 - ,looting‘ of and damage to artefacts
 - hardly any access to archaeology for anyone (outside Britain)
 - put actually quite popular: metal detecting, but also general public interest in participating in archaeological fieldwork

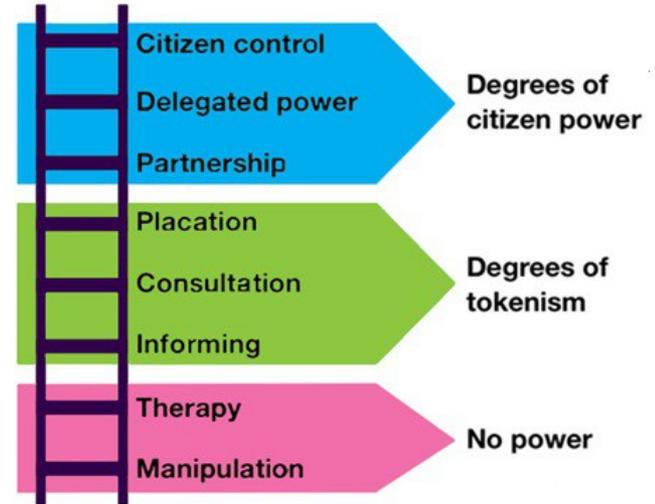
Popular interest in participation

- 2014 study by Vienna Celtic Studies students
 - n = 500
 - c. **62%** of respondents **would like to participate**
 - majority wishes to directly engage with **,real' archaeology**
 - 41 % in **excavations**
 - 22 % in **restoration**
 - 16 % in **finds collections**



What is public participation?

Arnstein's Ladder of Public Participation



- It's all about **power**
 - who decides?
 - who gets to do what?
 - who has a say in decisions?
- in research, normally:
 - **no problem!**
 - anyone can do whatever they like!

• But what if?

- **Someone wanted to dig up the Großmugl?**

Ordinary citizen, wanting to dig



Professional archaeologist

- **engaging with archaeology** can be **destructive**
 - So how **does** Heritage Management deal with this?

Protection in the interest of all?

- Archaeologists and heritage managers have long argued
 - that archaeology is a limited, non-renewable resource
 - which, in the words of many an international convention,
 - e.g. Valetta Convention Art. 1 (1),
 - must be protected

„as a source of collective European memory and an instrument for historical and scientific research“

- in the words of Friedrich Lüth (2006, 102)

*„...by means of the law in the interest of all ...
from the grasp of all...“*

- How **should** heritage management deal with this?

What is Enlightenment?

*„Enlightenment is man's emergence from his self-incurred immaturity. Immaturity is the inability to use one's own understanding without the guidance of another. This immaturity is **self-incurred** if its cause is not lack of understanding, but lack of resolution and courage to use it without the guidance of another. The motto of enlightenment is therefore: **Sapere aude!** Have courage to use your **own** understanding!*

...

*For enlightenment of this kind, **all that is needed is freedom**. And the freedom in question is the most innocuous form of all--freedom to make public use of one's reason in all matters.”*

Immanuel Kant

„An Answer to the Question: What is Enlightenment?“
Berlinische Monatsschrift, December 1784

The French Declaration of 1789

- “of the Rights of the Man and of the Citizen”
 - drafted by Lafayette and Mirabeau
 - inspired by the Enlightenment’s philosophy, especially Montesquieu and Rousseau
 - passed by the French National Constituent Assembly in 1789 as core of French Constitution
- Core principles:

„*Art. 1: Men are born and remain free and equal in rights. Social distinctions can be founded only on the common good.*

Art. 2: The goal of any political association is the conservation of the natural and imprescriptible rights of man. These rights are liberty, property, safety and resistance against oppression.

Art. 4: Liberty consists of doing anything which does not harm others: thus, the exercise of the natural rights of each man has only those borders which assure other members of the society the fruition of these same rights. These borders can be determined only by the law.”

The French Declaration of 1789

„Art. 5: **The law has the right to forbid only actions harmful to society.** Anything which is not forbidden by the law cannot be impeded, and no one can be constrained to do what it does not order.

Art. 11: **The free communication of thoughts and of opinions is one of the most precious rights of man:** any citizen thus may speak, write, print freely, except to respond to the abuse of this liberty, in the cases determined by the law.

Art. 12: **The guarantee of the rights of man and of the citizen necessitates a public force:** this force is thus instituted for the advantage of all and not for the particular utility of those in whom it is trusted.

Art. 16: **Any society in which the guarantee of rights is not assured, nor the separation of powers determined, has no Constitution.**”

The German Grundgesetz

- the fundamental constitutional law of Germany
 - also makes these principles to its main aims
 - expressed particularly in its Article 1:

„(1) The dignity of man is inviolable. To respect and protect it shall be the duty of all public authority.

(2) The German people therefore acknowledge inviolable and inalienable human rights as the basis of every community, of peace and of justice in the world.

(3) The following basic rights shall bind the legislature, the executive and the judiciary as directly applicable law.“

- And also clearly states in its Article 19 (2):

„(2) In no case may the essence of a basic right be affected.“

- **same applies in Austria**, even if phrased slightly differently in Constitution
 - and **also in the rest of Europe**, where the same principles are enshrined in the Charter of Fundamental Rights of the European Union

The first principles of science

- Modern „Wissenschaft“ is also based on the Enlightenment
- It has developed primarily out of
 - the **outright rejection of any authoritarian (dogmatic) knowledge** of what ‚the truth‘ is
 - in Kant’s sense: **understanding guided by others**
 - the **full endorsement of empirical observation and rational thought** as only means of the discovery of ‚scientific‘ knowledge
 - first expressed by Thales of Milet (c. 624-544 BC): scientific knowledge must be empirically test- / reproducible (by any other)
 - in Kant’s sense: **understanding without the guidance of others**
 - with the **need for academic freedom** perhaps most clearly and radically expressed by Paul Feyerabend in his ‚Against Method‘:

“The only principle that does not inhibit [scientific] progress is: anything goes.”

Is it just anything goes?

- It's not just anything goes, though:
 - if **anyone can** use their understanding
 - without the guidance of another
 - to empirically **test and reproduce**
 - by means of his own observations and rational thought
 - scientific **knowledge**;
 - it **necessarily logically follows** that
 - **anyone must** also **be able to** use their understanding
 - without the guidance of another
 - to **independently create**
 - by means of his own observations and rational thought
 - **new** scientific **knowledge**.
- Thus, the **first principles of science require**
 - not just **anything goes**, but also:
anyone may (engage in scientific research)

Question everything

- Even if one may not wish to go as far as Feyerabend:
 - for sound epistemological reasons, **no scientific knowledge can ever positively be known to be ,true‘**
 - this, of course, **also applies to scientific methodologies:**
 - there can never be a limited set of ,correct‘ scientific methods, let alone just one
- thus, it necessarily follows that the individual **freedom of research:**
 - is the **very essence of science**, since without it, science cannot exist
 - and **no** (majority of) **scientists, let alone the state, must ever restrict it**
 - however „true“ they believe their knowledge (and methods) to be
 - since this would be that very dogmatism that science fundamentally rejects
- Since our social order is based on the Enlightenment’s principles, this **has also been recognised in international and constitutional law:**
 - in Art. 15 (1-3) Int. Covenant on Social, Economic and Cultural Rights
 - in Art. 13 EU Charter of Fundamental Rights
 - in Art. 5 (3) Grundgesetz and Art. 17 (1) Austrian Staatsgrundgesetz

Art. 27 UDHR and Art. 15 ICESCR

- Art 27 (1) UHDR

„(1) **Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.**”

- Art 15 (1-3) ICESCR

„(1) **The States Parties to the present Covenant recognize the right of everyone:**

(a) **To take part in cultural life;**

...

(2) **The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture.**

(3) **The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity.**”

- ICESCR is binding international law:
 - ratified and made law by Germany in BGBl. 1973 II, 1569 (and BGBl. 1976 II, 428)
 - ratified and made law by Austria in BGBl. 590/1978

Rights to active state services

- Art. 15 (1-3) ICESCR rights are „Leistungsrechte“
 - („status positivus“ in German constitutional law jargon)
 - they **require the state to actively provide**
 - the **„services‘ required** by individuals **to exercise** their guaranteed **rights**
 - especially where ‚participatory‘ rights are concerned, this
 - » definitely includes the right to use existing (state) facilities
 - » may include the right to be provided with financial support / resources by the state
 - including **sufficient (legal) provision of** the **necessary freedoms** to do so
- The **Faro Convention** (ratified by Austria in 2015)
 - only further **specifies what** these already existing **rights entail**
 - e.g. by its Art. 12 (1) that
 - ***„The Parties undertake to: (a) encourage everyone to participate in: the process of identification, study, interpretation, protection, conservation and presentation of the cultural heritage;“***
- Of course, even human rights may be restricted
 - if their unrestricted exercise would be harmful
 - to others (see Article 4 French Declaration of 1789)
 - or society (see Article 5 of the same)

A limited, non-renewable resource?

- particular evidence from the past is obviously non-renewable
 - e.g. a particular Celtic site
 - the general renewability of heritage, however, that's a different matter!
- but how limited is it actually?
 - e.g.:

Sites known to heritage agencies:

Austria: c. **19.550** (0,23/km²)
 Baden-Württ.: c. **40.500** (1,13/km²)
 Brandenburg: c. **52.000** (1,76/km²)
 Lower Saxony: c. **123.300** (2,59/km²)
 Wales: c. **100.000** (4,81/km²)

Estimated number of existing sites:

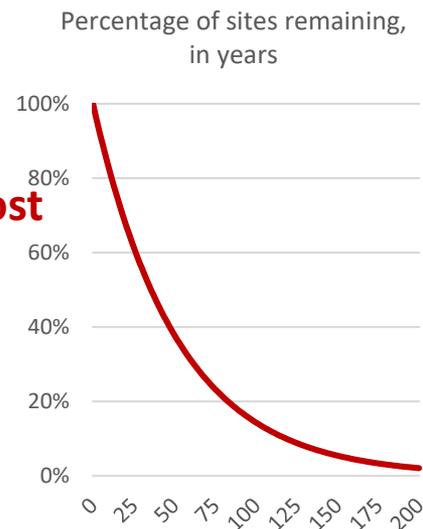
c. **1.048.488** (of which c. **1,9%** are known)
 c. **446.887** (of which c. **9,1%** are known)
 c. **368.487** (of which c. **14,1%** are known)
 c. **595.175** (of which c. **20,7%** are known)
 c. **259.625** (of which c. **38,5%** are known)

- but figures reported from large-scale excavations
 - e.g. Saxony: on average, only c. 20% of existing sites known (Schäuble 2012, 19)
 - e.g. Lower Saxony: in some areas, only 10% known (pers.comm. H. Haßmann)
 - e.g. Wales: less than 50%, sometimes only 30% known (pers.comm. A. Davidson)
- require us to assume an **average of c. 12,5 actually existing sites/km²**
- estimated number of sites existing in **Germany: c. 4.467.325**

Protection for when, for whom?

- A little thought experiment:
 - currently: at the most, **c. 950 archaeologists** in Austria (DISCO)
 - let us assume that every one of them can fully excavate 1 site per year and does nothing else during their careers (**exceedingly optimistic!**)

→ so: $1.048.488 / 950 = 1.103,67 \text{ years (c. 44 generations)}$ to excavate all of them
- So, how long will these sites last *in situ*?
 - e.g. **loss of sites** known in BW in 1830 until 1985 (**155 years**): **95%**
 - all evidence points at **increasing speed of site loss**
 - e.g. in parts of Scotland, over 80% of cropmark sites since 1980
 - increasingly noticeable even in scheduled sites in Yorkshire
 - **future projection** thus has to assume that
 - in the **next 200 years**
 - assuming stable (= not increasing) rate of attrition
 - **nearly 98%** of all currently **existing sites** will be **completely lost**
 - mostly unexcavated or (only even) knowing that they ever existed
- So, if „protecting“ them „by law ... from the grasp of all“,
 - for **whose benefit**
 - and **what future generations** of researchers,
 - are we actually protecting them?



Active participation by the public?

- What did our representatives mean when they wrote?

- Art. 2 Lausanne Charter (ICOMOS 1990)

„Active participation by the general public must form part of policies for the protection of the archaeological heritage.”

- Explanatory report to the Valetta Convention (CoE 1992)

„... there is increasing demand by members of the public to have access to their past. This is a demand for an identity and is a fundamental right of peoples.”

- Art. 4 (c) Faro Convention (CoE 2005)

„The Parties recognise that: (c) exercise of the right to cultural heritage may be subject only to those restrictions which are necessary in a democratic society for the protection of the public interest and the rights and freedoms of others.”

- That the **fundamental right** of people **to participate** in archaeology
 - must generally be **suspended for** (at least) the **next 1.100 years**?
 - must **not be exercised** by anyone **without the guidance of archaeologists**?
 - is **superseded by** the **right of the state** to entrust its **officials to protect it**,
 - for their own particular utility,
 - in the interest of future generations,
 - **from the grasp of** its currently living **immature subjects**?

Conclusions

- The principles of the Enlightenment are fundamental
 - to the rule of law, the foundation of our societies
 - and their main aim, as the German constitution puts it, to

“...acknowledge inviolable and inalienable human rights as the basis of every community, of peace and of justice in the world.”

- and to the pursuit of science
 - and its most essential characteristic, as stated in ICESCR,

“the freedom indispensable for scientific research”

- and thus also to modern **Celtic Heritage** management

- Both make it essential that the **dignity of man**, to (in Kant’s words)

„use one’s own understanding without the guidance of another”

- and the **freedom** indispensable for doing so is both **respected and protected**

- **Participatory rights** of individuals must therefore be **fully enabled**

- especially in research (including archaeological research)
- especially if the limited resource available is in fact so plentiful,
- and so threatened by destruction by other means than research
- that professionals cannot protect and research most of it

- **before the heritage is destroyed** unresearched, unrecorded, and unenjoyed!

Thank you for your attention!



Sapere aude!