POLSKA AKADEMIA NAUK • INSTYTUT NAUK PRAWNYCH

ZAKŁAD KRYMINOLOGII

ARCHIWUM KRYMINOLOGII

Archives of Criminology

PL ISSN 0066-6890

DOI 10.7420/AK2021.18

2022 • 44(1) • 197–227

Michalina Szafrańska ■

(Penal) populism and experts in the age of the digital crowd wisdom

(Penalny) populizm i eksperci w czasach cyfrowej mądrości zbiorowej

Abstract: Disregard for scientific facts and knowledge holders has usually been identified as a distinguishing feature of the politics of penal populists. But is penal populism always anti-intellectual? In this article, I provide some deeper insight into the role of expertise in (penal) populist activity, especially in the context of the currently observed redefinition of expertise (some call it "the death of expertise") and the rapid development of new technologies that enable easy aggregation of citizens' collective wisdom. Will "crowdlaw" platforms prevent (penal) populism? Or will they strengthen it, by facilitating justification of radical and unnecessary changes in (criminal) law? Is there a place for traditionally conceived experts and established knowledge in the crowdsourced law-making process, and if so, what should be their role?

Keywords: crowdlaw, crowdsourcing, penal populism, e-participation, law-making

Abstrakt: Lekceważenie wiedzy eksperckiej oraz jej posiadaczy jest zwykle identyfikowane jako wyróżniająca cecha penalnopopulistycznej polityki. Czy jednak w istocie populizm penalny jest jednoznacznie antyintelektualny? Artykuł jest próbą zaprezentowania roli ekspertyz w działalności populistów (penalnych) w kontekście obserwowanej obecnie jej redefinicji i szybkiego rozwoju nowych technologii, które umożliwiają łatwe agregowanie zbiorowej mądrości obywateli. Czy platformy crowdsourcingowe będą przeciwdziałać (penalnemu) populizmowi? A może raczej wzmocnią go, ułatwiając uzasadnianie radykalnych i niepotrzebnych zmian w prawie (karnym)? Czy crowdsourcing w tworzeniu prawa pozostawia miejsce dla tradycyjnie rozumianych ekspertów i wiedzy naukowej, a jeśli tak, to jaka powinna być ich rola?

Słowa kluczowe: crowdlaw, crowdsourcing, populizm penalny, e-partycypacja, tworzenie prawa

Dr Michalina Szafrańska, Jagiellonian University, Department of Sociology of Law, Poland, michalina.szafranska@uj.edu.pl, ORCID: 0000-0001-9389-7352

(Penal) populism and experts: A closer look

Disregard for scientific facts and knowledge holders has usually been identified as a distinguishing feature of populist policy. When analyzing various types of populism, and what, if anything, they have in common, Canovan (1981) points to two essential aspects shared by the majority: the exaltation of "the people", and anti-elitism, manifested as a distrust of professional politicians, disgust with representative democratic institutions and the very idea of representation, as well as anti-intellectualism. For Wiles (1969), anti-intellectualism and hostility towards science (contrasted with the confidence in the common-sense wisdom of ordinary people and their ability to govern) are essential elements of what he calls the populist syndrome. According to Taggart (2002: 76), disregard for experts is typical of the populist "politics of simplicity", which should, in theory, reflect common-sense folk wisdom. Populist rhetoric relies on transparent and simple messages (both with regard to their form and content), as opposed to complicated, and therefore suspicious, elitist jargon and expert newspeak. As Canovan (1999: 6) puts it, "Populists love transparency and distrust mystification: they denounce backroom deals, shady compromises, complicated procedures, secret treaties, and technicalities that only experts can understand". The fact that populists invite distrust (to say the least) of expert knowledge and distance themselves from it is also emphasized in attempts to define penal populism (Roberts et al. 2003: 88; Pratt 2007: 12–20). As Pratt & Miao (2017: 2) have aptly put it, "Slamming the door in the face of reason, penal populism undermines the very kernel on which modern punishment had been built: the way in which, from the time of the Enlightenment, science, rationality and expert knowledge were expected to outweigh emotive, uninformed common-sense, thereby ensuring that reason outweighed anti-reason in the development of penal policy".

Indeed, penal populism often manifests itself by discrediting those who, while making or applying criminal law, go beyond simply satisfying the public sense of justice, citing humanitarian, scientific, or pragmatic considerations. Penal populist criticism is therefore often targeted not only at the perpetrators of crime, but also at those who do not respect the victims' right to retaliate and the society's right to live without fear. It is aimed at those academics and practitioners of justice who advocate a criminal policy relying on scientific evidence rather than resentments. "When populism goes on the warpath, among those they wish to strike are the 'overeducated', those who are 'too clever', 'the highbrows', the 'longhairs', the 'egg-heads', whose education has led them away from the simple wisdom and virtue of the people" (Shils 1956: 100). Scientific integrity or inquisitiveness in rationalizing the solutions proposed in the justice system or criminal policy is often presented as a sign of excessive meticulousness and over-intellectualization. Marginalization of expert knowledge in the criminal law-making process can take various forms, including:

- a decision not to appoint expert teams to draft criminal law acts,
- a decision not to submit draft legal acts to experts for an opinion, or consulting a biased selection of entities for their opinions,
- disregarding submitted expert opinions or considering them in a selective manner, for instance by focusing on scientific data which only serves to support the assertions made, ignoring those that prove them false; complete lack of or a superficial reaction to critical comments or suggestions included in expert opinions as to the content of legal regulations (by treating them in a perfunctory manner or completely ignoring them),
- omitting scientific evidence in the rationale attached to proposed draft amendments, which would justify the need for or choice of the solutions suggested for adoption, including doctrine analyses, results of empirical studies, statistical data relating to, for example, the current state of affairs or trends in the area to be regulated, effectiveness of the proposed methods, and so forth (Szafrańska 2015: 153–154).

These and other forms of downplaying the role of experts and expertise in the law-making process can be seen both in relation to the diagnosis of the factual and legal background that would justify the postulated amendments to existing laws, and in terms of the proposed remedies (interventions). Obviously, local legislation sets limits to a certain extent here, as it can legally secure specific forms of mandatory participation of experts in the law-making process. Nevertheless, cases of more or less ostentatious circumvention of these legal barriers are not at all uncommon. For instance, over recent years in Poland, a whole spectrum of methods to blatantly disregard the law and good legislative practice have been witnessed: controversial draft amendments were submitted as parliamentary rather than governmental proposals in order to avoid using a more restrictive legislative path; regulations on fundamental issues relating to the state system or sensitive from the perspective of citizens' rights and freedoms were passed late at night within a time frame precluding any reflection and debate (not only among experts) on the changes to be introduced; time and again, only those experts who supported uestionable amendments were consulted, while critical voices were dismissed without comment. As a result of frequent application of separate procedures and, as Jaroslaw Kaczynski bluntly put it, simply "without any procedure" (Polish: *bez żadnego trybu*), public consultations were abandoned altogether; for example, in the last year of the government's first term of office (2018–2019), the lower house of the Polish parliament consulted the public on less than two-thirds of the draft laws in progress), and the average duration of such consultations was less than 12 days. In the course of work on the amendments to the Penal Code (in June 2019), a peculiar and unprecedented situation occurred when the Minister of Justice threatened to sue the experts who had issued a critical opinion on the draft law

presented during the parliamentary session (*Ustawa* 2019; in English see also: *The constitutional* 2016; Joński, Rogowski 2020).[1]

Aversion to experts is also recognized as one of the key features of (penal) populist political discourse (Canovan 1981; Taggart 2000; Mudde 2004; Pratt 2007; Wodak 2015). A typical populist rhetoric serves to create a simplified and, at least superficially, coherent vision of social reality in the citizens' minds. Populists offer the illusion of a shared world in need of repair, and maintain the impression that their actions are taken in the public interest. They usually present a highly pessimistic diagnosis of the state of democracy and public security, and at the same time propose optimum remedies in line with public expectations. So far, the researchers' considerations have lead to the conclusion that the penal populist style of communication originates primarily from Manichaean optics, introducing a division into two dichotomous groups: (1) the fundamentally evil, cynical, cruel criminals versus the oppressed, fearful people, and (2) the over-intellectualized political and scientific elites insensitive to human tragedy versus the people, as the holders of wisdom enabling them to distinguish between justice and injustice in the most reliable way. Examples of downplaying the importance of experts and expertise, which manifest at the level of language use, include: various methods to discredit and insult experts in the field of combating and preventing crime, undermining their role in penal policy-making, as well as downgrading the relevance or credibility of the outcomes of scientific research and statistical data; grandiloquent dramatization and emotionalization of the discourse on crime and punishment, which casts doubt on the need to consider rational arguments when they are at odds with emotive arguments; or, finally, the reference to "facts we all know" while disregarding scientific evidence on the state of security, fear of crime, social expectations, and so forth, which is a reference to the so-called apparent obviousness (Szafrańska 2015: 45–67).

But is penal populism always and unequivocally anti-intellectual? While many activities characterized as penal populist undoubtedly have this quality, it doesn't seem to be constitutive of penal populism (or populism in general). Despite a frequently declared aversion to the intellectual establishment, many (penal) populists use expertise to legitimize their decisions, for instance by involving "real" experts in law-making processes, using their own expert support and, quoting research results and statistical data, with greater or lesser accuracy. Populists (including penal populists) appear to display an opportunistic rather than a clearly hostile attitude toward experts and scientific research. Therefore, they are not opposed to intellectuals and the outcomes of their work a priori, but eagerly include counter-expert arguments as a tool when scientific knowledge turns out to be an obstacle to the projects they strive to push forward. They exhibit an opportunistic approach

[1] Although Poland can be seen as slipping into authoritarianism rather than populism (while the boundaries of the latter term are extremely blurred) the outcome of disregarding experts in the law-making process does not have to differ significantly within these two political styles.

to expert studies, using scientific evidence only to corroborate their hypotheses and not to actually verify them.[2] They are also eager to partner with all sorts of quasi-experts or just their own experts (properly ideologically oriented but not necessarily evidence-oriented) who use scientific jargon to justify controversial legislative actions taken by politicians. To reinforce their prestige or credibility, they readily resort to references to more or less precise empirical evidence or alleged statements of doctrine (Czapska 2008; Turner 2014).[3] Taken out of context and selectively presented, or given a biased interpretation, they become the key argument for controversial legislative projects.[4] What we might be confronted with here is the fabrication of complete source information by way of: abridgement or selective presentation of certain useful fragments, while omitting inconvenient information; embellishment of source information in order to "dilute" unfavorable facts; addition of comments which distort or undermine the content of such information or question the credibility of its sources, and so forth. This type of rhetorical activity should certainly be deemed a manifestation of *argumentum ad verecundiam* – an unreliable appeal to authority, involving a reference to unspecified sources which may automatically instill trust. It serves to lend respectability to the statements being made and, at the same time, to weaken critical arguments from the audience, challenging the position of the opponents, who then find it more difficult to contradict such apparently reliable expertise or statistical data.

[2] This attitude to facts and research evidence is actually rather common for modern politics as such, not only for (penal) populism. The problem becomes even more complicated when it is noted that many contemporary applied research (including those meeting all methodological rigors) is more or less involved in the political and cultural "wars of ideas" (Rich 2004). It is perfectly illustrated by the contemporary scientific discussion on the "blurred nature" of think tanks. Although most of these organizations are defined as being apolitical or neutral in terms of worldview, research reveals how often they are driven by an ideological agenda or simply involved in a relationship with a research sponsor that can itself influence the freedom to conduct research. It is argued that think tanks, with a great and ever-growing influence on implemented public policies should not be "no longer be seen as legally independent, scholarly-like, autonomous free-thinking bodies "(Stone 2013). At least some of them differ little from advocacy organizations promoting specific points of view and preordained policy prescriptions (Rich 2004; on bias in think-tank research see also: Kavanagh, Rich 2018; Bland 2020). These problems will not be raised further in the text: due to their complexity, they certainly deserve a separate comprehensive study. However, while reading further considerations, one should not forget about the complex nature of the relationship between research and policy making institutions.

[3] Empirical analysis of the law-making discourse presented in other works published by the author of this article has made it possible to draw such conclusions for a certain part of the Polish political reality (Szafrańska 2013; Szafrańska 2015).

[4] A special role is played here by quantitative opinion surveys on attitudes toward crime and punishment, fear of crime, or victimization experiences, which in some countries have gone as far as to become part of the institutionalized practice of reinforcing the punitive nature of the justice system (Turner 2014).

The question of populists' ambivalent attitude toward expertise is nowadays becoming even more complicated. The key slogan of all sorts of populists has always been that politics has escaped popular control and that popular control, as the essence of the democratic system, must be restored (Canovan 2002: 27). This objective was to be achieved by ensuring that, to the greatest extent possible, the will of the represented is binding on their representatives, or by providing procedural mechanisms for much broader, and above all decisive, public participation in the exercise of power (for instance, in the form of binding referendums, plebiscites, a wider scope of citizens' legislative initiatives, mandatory and binding public consultations). Such slogans, although they allow politicians to gain popularity among citizens who are convinced of their own powerlessness, do not usually go beyond mere declarations. In the case of criminal policy, these actions may amount to simply or even superficially satisfying the 'populist punitiveness' of citizens (Bottoms 1995: 40), encouraging punitive laws and decisions in response to more or less reliable indicators of public expectations in this area. Time and again, politicians tend to respond to stereotypes, resentments, alleged or even artificially created needs (postulates) rather than to the actual and empirically verified expectations of citizens. However, politicians also happen to be "led by extraparliamentary forces which claim to speak on behalf of the public at large. In these respects, various lobby and pressure groups, usually coalescing around single issue politics and drawing on grass roots support, while deliberately eschewing advice from academics or penal officials, represent something more substantive than mere ethereal sentiment or mood" (Pratt, Clark 2005: 304). Pratt (2007) believes that the essence of penal populism precisely comes down to this change in the forms of communication between authorities and citizens, whose representative bodies are encouraged to make their voice heard and actively participate in penal policy-making. While this was indeed a milestone in realizing the populists' slogans of restoring grass-roots sovereignty (and at the same time a millstone around the neck of evidence-based criminal policy), it was in many cases still a far cry from the ideals of plebiscitary democracy so cherished by populists.

Over the last decade, we have seen a breakthrough in this area, driven by the rapid development of new technologies that make it considerably easier to aggregate and share "the will of the people" and use it in law-making processes. Recently developed nationwide or local crowdsourcing and crowdlaw-making platforms offer unprecedented opportunities for the direct individual involvement of citizens in the law-making process. Moreover, these rapid and constantly evolving technological developments are accompanied by the currently observed redefinition of expertise (some even call it "the death of expertise") and democratization of knowledge or, as some pessimistically see it, a prevalent "narcissistic and misguided intellectual egalitarianism" (Nichols 2017). Amateur messages are increasingly treated as equivalent to expert messages, or perhaps even more valuable, as they are not proclaimed ex cathedra, but rather established by way of agreement and discussion, derived from real life experience and not from abstract analyses. Proponents of

the idea of involving amateurs in the generation of "collective intelligence" claim that the internet breaks the monopoly of scientists as the source of reliable and credible information, as groups of passionate non-professionals are equally capable of creating messages of similar informational value (Szpunar 2012: 50). However, skeptics describe the products of such activities as "massive ignorance" and point out that "amateurism, rather than expertise, is celebrated, even revered" on the internet, while "what defines 'the very best minds' available, whether they are cultural critics or scientific experts, is their ability to go beyond the 'wisdom' of the crowd and mainstream public opinion (…)" (Keen 2007: 45, 37, 44). Regardless of where we stand on the involvement of laypeople in the process of generating social knowledge, it is now a fact and is increasingly gaining in importance, including in the areas of political decision-making and law-making processes. This means that the traditional populist division between on the one hand, an over-educated, privileged intellectual elite detached from everyday life and holding absolute knowledge, and on the other, a common-sense, simple people, is becoming blurred. As a result, both (penal) populists and those who are closer to rational (penal) policy face a new challenge, and the manner in which we address that challenge may be crucial to how (if at all) the current model of political involvement of citizens in political and law-making processes, which calls for changes, will evolve. Are we witnessing a significant change that brings us closer towards the ideal of democracy and more aware citizens' involvement in (criminal) policy decision-making? Or is it just a direct-democratic window-dressing, implemented here and there to create the illusion of participation?[5] Will it prevent (penal) populism? Or will it instead strengthen it, making it even easier to justify radical and unnecessary changes in (criminal) law thanks to online tools enabling participation in the law-making processes? Is there a place in this model for traditionally understood experts and established knowledge, and if so, what should be their role and what will be the relevance of crowdsourced knowledge?

[5] Although the development of crowd law platforms and other e-democracy initiatives over recent years is well documented (see the sources cited later in the text), the real sovereign influence over the law through crowdsourcing can be very diverse. It depends on many factors, ranging from the functionality of a given platform, how politicians are bound by the decisions made by citizens, the degree to which the political culture is conducive to participation, the rules governing who and under what conditions can decide on subjects for civic deliberation, and finally organizational and financial possibilities, which affect the "processing capacity" and the quality of the platform's operation (some of these issues will be discussed in more detail below). Equally important is the interest in participation from the citizens themselves, and this - at least so far - can be observed in a rather small percentage of the population. Thus, although the trend of citizens' political activity moving to the virtual space is clearly visible (see below for considerations on "networked citizenship"), currently it is still relatively rarely reflected in quite demanding forms such as CrowdLaw.

Crowdsourcing in law making: Goals and tools

CrowdLaw is intended as an alternative to traditional law-making procedures, which primarily involve politicians and legislators. This umbrella term covers various manifestations of the application of new technologies to collect and potentially use the knowledge and opinions of citizens. It is an open call for anyone to participate in an online task in the lawmaking process (Simon et al. 2017). The idea is to improve the quality of adopted regulations, their social legitimization and, consequently, also the effectiveness of the law. The ambition of the advocates of this form of social participation is to create norms which are "more effective because they bring in more diverse ideas, more legitimate because they are done with broader participation [and] more accountable because the lawmaking process becomes subject to greater scrutiny" (Root 2015). Naturally, academic discussion on the principles of effective law-making discourse and the various methods of increasing public participation in the law-making or, more broadly, public decision-making processes is nothing new, and has been ongoing for a long time. In the CrowdLaw model, however, deliberation is intended to mitigate the weaknesses associated with existing forms of participation. To start with, they mostly rely on direct and personal involvement of relatively small groups of citizens. This often means that the views of all those affected by the regulation being discussed are not truly represented, while the financial and organizational costs are sometimes disproportionate to the benefits gained. The distinguishing feature of the forms of participation such as CrowdLaw is that it is scaled up to the masses: usually there is no limit on the number of people encouraged to make their voice heard. By using widely available technologies and social media concepts well known to internet users, citizen engagement is meant to be open, asynchronous and depersonalized. Free access open to anyone interested in the process is also seen as an opportunity to give voice to different social and interest groups, and to paint a more nuanced picture of the regulated sphere of social life. Moreover, once the optimum infrastructure and procedures are in place, the costs of engaging large groups of citizens in the debate will become relatively small.

Secondly, even if the traditional policy-making or law-making process allowed for the involvement of citizens on a larger scale (regional or national), it was mostly limited to taking a position for or against the proposed solutions or variants thereof (popular initiatives, referendums), or to make non-binding comments (public consultations). Deliberative portals such as CrowdLaw usually combine several functionalities, enabling the engagement of citizens in various types of activity at different stages of the legislative process:

- issue framing, namely pointing to problems to be regulated and to the directions of such regulations (for instance, internet petitions, online voting – primarily at the local level or in the case of initiatives of political parties),

- sharing ideas, namely offering ideas for new, optimized solutions, usually by drawing on practical knowledge or on personal or professional experience associated with the subject of regulation; what counts here is not only the creative contribution of laypeople, but also ideas submitted by citizens who are specialists, drawing on their in-depth knowledge of a given business sector or expertise gained abroad,
- providing information/technical expertise via portals dedicated to sharing and aggregating scientific data and expert knowledge, as well as announcing the requisition of such knowledge,
- formulating opinions on proposed regulations, for instance via websites and applications which support online discussions, exchange of arguments (discussion forums, applications such as Deliberatorium, Consider.it, Regulation Room, online transmissions allowing to add comments or hold discussions in real time),
- drafting bills, namely creating, developing and adjusting the content of draft legislation with the use of programs supporting remote collaborative work on the text,
- decision-making through binding or non-binding online voting and online referenda,
- monitoring implementation and evaluation.

Such numerous and diverse opportunities for participation in political decision-making seem to greatly foster the political activation of citizens and the development of civil society. However, it should be emphasized that this is not the main objective behind the CrowdLaw idea. As emphasized by Alsina & Martí (2018), "The main focus is in the quality of the law and decisions made. It emphasizes the institutional design needed to digest all collected knowledge and put at the service of better decisions, not merely the design needed for individuals to participate. Thus, it is participation for the sake of a greater quality and effectiveness of the law and public decisions, not for participation's sake" (see also Noveck 2018). To sum up, the CrowdLaw model seeks to provide, through electronic tools, an opportunity for institutionalized, direct citizen participation in important legal and political decisions. It can be implemented on both local and national levels, on the initiative of political parties or state bodies, or entirely at the grass-roots level.

This article does not offer enough space to discuss all major initiatives of this type, so I will only present a brief description of two of them, which are successfully, albeit not without obstacles and disruptions, operating on a nationwide scale and are considered to be among the most advanced tools of that type (Noveck et al. 2020). It should be noted, however, that a lot of tools are currently being developed all over the world, and the empirical evidence presented so far shows their considerable ability to transform the somewhat exclusive existing procedures

of law-making and political culture.[6] I hope that this (unavoidably) synthetic description of the chosen initiatives will at least roughly illustrate the multitude of available tools and forms of citizen involvement in the law-making process and, most importantly, provide insight into a new quality in comparison with earlier methods used to stimulate social participation in political decision-making. Currently, the world's most advanced system of tools used for that purpose is probably the vTaiwan platform.[7] It was created in 2014 from the initiative of a group of activists operating under the name g0v, and consistently developed over the next several years with the support of the government – but, importantly, independently of it.[8] vTaiwan is a database that compiles all the important information on legislation being passed (for instance, the content of drafts, expert opinions, videos of politicians' speeches, transcripts of past discussions and meetings) and also a discussion forum. In addition, to ensure quick exchange of information and views, the platform has embraced and adapted many widely known internet applications and tools (such as Typeform, SlideShare, Discourse, GitBook, Slido, YouTube), which are employed depending on the form of participation selected by the portal's personnel. These forms differ depending on the current deliberation stage of the project, namely: the proposal stage, opinion stage, reflection stage or legislation stage. Importantly, in order to ensure an exhaustive discussion on the draft regulations under debate, the portal administrators are required to ensure that various viewpoints are represented (by representatives of NGOs and urban movements, citizens, researchers, practitioners, businesses, and so forth). In most cases, the consensus reached by citizens via the portal – 200,000 people have so far taken part in vTaiwan discussions (Horton 2018) – has been respected by the

[6] A general, structured description of more than a hundred such ventures was created by researchers and activists from around the world as an initiative of The Governance Lab at New York University and is available online as CrowdLaw Catalog (*CrowdLaw* n.d.). The portal includes brief descriptions of each crowdlaw case and is searchable by four criteria: level of government involved (national, regional and/or local), stage of the law-making or policy-making process (problem identification, solution identification, drafting, decision making, implementation and/or assessment), materials that people are asked to contribute (ideas and proposals, expertise, opinions, evidence and/or actions) and technology used (web, mobile and/or offline). For a more detailed description of several selected examples of crowdsourced law-making from around the world, see the playbook *Crowdlaw for Congress. Strategies for 21st Century Lawmaking* (Noveck et al. 2020).

[7] The portal is available at: https://vtaiwan.tw/ [10.05.2021]. The description (in the English language) of its objectives and activities to date can be found at: https://info.vtaiwan.tw/ [10.05.2021].

[8] In 2014, Taiwanese parliament was occupied by peaceful protesters (later dubbed the Sunflower Movement) in response to a proposed trade deal with China. During the protests, an activist group called g0v created a number of digital tools to help communicate and coordinate the protests. The new government (replacing the previous government which stepped down as a result of protests, among other things) proposed that g0v volunteers use the tools and social capital they had created to develop an online citizen consultation system that would be supported by the government but managed by volunteers.

Taiwanese parliament, at least for some time. In 2017, the government's National Development Council created a new, this time entirely state-managed, portal for e-participation – Join. This is a comprehensive platform on which citizens can discuss existing policies, propose new policies through on-line petitions and give feedback directly to the heads of government agencies (Hierlemann, Roch 2020). Nearly five million of Taiwan's 23 million inhabitants are already on the platform (Horton 2018).

The second example is E-Democracia,[9] an internet portal founded in 2009 in Brazil by an initiative of the lower house of Brazilian parliament (Câmara dos Deputados). The objective declared by the portal's creators was to enhance citizens' understanding of the relatively complicated procedure of national law-making, as well as to ensure greater transparency and public participation in the process. To that end, the portal employs three tools: legislative communities (*comunidades legislativas*) – theme-specific discussion spaces devoted to current legislative initiatives (there are usually about twenty of them, including those concerning corruption and cybercrime), offering discussion forums, video conferences with MPs or surveys on specific proposals; the so-called "free space" (*espaço livre*) – an additional discussion space dedicated to all matters that are within the competence of the lower house of parliament, but do not as yet have their own dedicated legislative community; and Wikilegis – a tool for the collective online creation of and commentary on draft legislation. In 2013, the initiative struggled with a lack of interest from both citizens and politicians. A hackathon was therefore organized, bringing together, among others, IT specialists, MPs and NGO representatives, in order to brainstorm ideas for improving the functionality of the available IT infrastructure. The event was such a great success that the parliament decided to create a permanent internal unit (LabHacker), which continuously develops new solutions to enhance social participation in the legislative process and its transparency. The portal enjoys considerable interest among citizens: in 2020, it brought together about 37 thousand registered users, who left their mark in the form of 52 million page views, 23 thousand posts and 18 thousand comments in interactive events. Public participation in the law-making process is also expected to be additionally enhanced with a free mobile app *Mudamos* (We Change) released in 2017 – another tool that allows citizens to draft their own bills and lobby for support using electronic signature technologies (Konopacki et al. 2020).

A number of electronic platforms and tools are currently being developed around the world to enhance citizen participation in law-making processes in real terms. And although this trend generally seems to arouse more enthusiasm than objections, the arguments of skeptics should certainly not be ignored. The fact is that e-participation tools, when used in an opportunistic, unreflective or incompetent manner, can transmogrify the concept of democratizing law-making into a caricature of itself. This can be all the more conceivable, given that crowd-

[9] The portal is available at: https://edemocracia.camara.leg.br/.

sourced law-making "is still in its infancy" (CrowdLaw 2018), while the attempts made to implement it are so far still referred to in the literature as experiments. Knowledge of "what works" in crowd-law-making is, for now, very fragmented and local. For this reason, the observations presented in this article will not constitute a summary of the outcomes of numerous in-depth scientific studies, but rather an attempt to collect the critical reflections expressed to date on the (un)successful projects implemented, where possible, in the field of criminal law and criminal policy. Identifying key weak points in the design and functioning of similar projects should help to predict whether, and to what extent, CrowdLaw can serve as an antidote to (penal) populist activity by politicians, and what role by expert knowledge as traditionally understood can play in this respect.

CrowdLaw: New challenges for experts in the law-making process

Proponents of the idea of crowdsourcing in law-making point to the problem of a general shortage of information in the legislative process, in a dual sense. Firstly, law-making institutions lack a broad, interdisciplinary and dynamic expert background which would allow for thorough and engaged discussion of the regulations to be introduced and for more evidence-based decisions. Of course, in the traditional law-making process, expert opinions are often used at the stage of establishing the assumptions of the regulation contemplated, in the drafting phase or during consultations with specialists, but this process is often not very transparent and leaves plenty of room for potential abuse (from the selection of experts involved, up to the willingness of politicians to consider rational suggestions consistent with existing expertise). The impact of the expertise provided is also usually limited to those closely involved in the drafting process, and it is probably not uncommon for parliamentary majorities to find themselves struggling to understand what they have just voted for or against. Solutions proposed in the spirit of CrowdLaw seem promising both in the context of a general improvement of the quality of law-making processes and potential opposition to (penal) populist initiatives of politicians. These solutions include publicly available platforms or procedures for collaboration between researchers representing various disciplines and lawmakers at large, such as the Congressional Science Policy Initiative (CSPI), which was established in the United States in 2019. It is a platform for collaboration between Congresspeople and their staff and the Federation of American Scientists (FAS) which currently has over 600 members. The goal of FAS is to provide "science-based analysis of and solutions to protect against catastrophic threats to national and international security" (*About FAS* n.d.). Researchers representing various disciplines from across the United States affiliated with the Federation

assist Congressspeople in compiling key information useful during Congressional hearings. This stage of law- and policy-making process plays an essential role in the process of formulating opinions on often complex and multifaceted legislative issues. At the same time, it rarely involves researchers, and Congresspeople do not have enough opportunities to prepare in detail, due to work overload and sometimes the lack of competence of their personnel (staffers). Basically, CSPI comes down to "matching supply and demand" on a win-win basis: it "provides access to the collective knowledge of a community of scientists from across the nation who, with the support of the FAS, can provide succinct and objective analysis – 'letting the data talk' – and who can suggest questions they can ask of witnesses at Congressional hearings. For scientists, the CSPI offers structured and timely ways they can influence policymaking, by shaping the discussions held during Congressional hearings" (Noveck et al. 2020: 2).[10] Some expert crowdsourcing projects in the field of crime reduction are also implemented by The College of Policing in the UK: the What Works[11] Centre for Crime Reduction, np. Policing and Crime Reduction Research Map, Cross-Government Trial Advice Panel. Similar initiatives aimed at achieving a more informed policy discussion on new legislation thanks to the collective intelligence of the academic community are being developed in various ways in other countries as well.[12] As long as there is free access for researchers and a free exchange of ideas, and politicians are ready

[10] FAS staff and affiliates use the website to help Congress staffers collect and organize a variety of electronic scientific data and information (news articles, reports, podcasts, etc.) that may be useful at a hearing on a particular subject. The FAS scientific community is then asked to provide their expertise and suggestions for questions to be asked during the hearing. Additionally, CSPI crowdsource evidence-based technical assistance on legislation developed by Congressional offices or Committees and organize councils of experts to advise Senators and Representatives. A detailed scope and description of CSPI's policies can be found at: https://fas.org/congressional-science-policy-initiative/ [10.05.2021].

[11] The What Works Network is an initiative aims to improve the way British government and other public sector organisations create, share and use high quality evidence in decision-making. It supports more effective and efficient services across the public sector at national and local levels. See: https://www.gov.uk/guidance/what-works-network [10.05.2021]. For more information on What Works Centre for Crime Reduction, see: https://whatworks.college.police.uk/About/Pages/default.aspx [10.05.2021].

[12] In Australia, the Evidence Check Rapid Review Programme is in place under which urgent reviews (a synthesis, summary and analysis of available research) regarding the possibility of regulating a specific problem or other specified issues are commissioned by public entities (Moore et al. 2018). The Evidence Check procedure in the UK Parliament is another interesting example. A government representative who is an owner of a particular legislative initiative is required to answer the following questions: 1) what is the policy about? and 2) on what evidence is the policy based? The government's position is then reviewed and evaluated by the Science and Technology Committee and published online to enable discussion on an internet forum. Both organizations and institutions to which the regulation may apply as well as "ordinary" citizens are invited to participate (Noveck et al. 2020: 156–159).

to use them in an unbiased and not only symbolic way,[13] it seems that they can be conducive to improving the quality of the law-making process and curbing the populist proclivities of politicians.

The aforementioned shortage of information usually affects citizens who are encouraged to participate in legal decision-making to an even greater extent. Better access to information resources, including specialist information, which are growing at an exponential pace, does not translate automatically into better-informed citizens. Information overload (also known as, among others, infobesity, information pollution, infoxication, information violence[14]), observed even before the era of global networking, is now a widespread and pressing problem. It is not only caused by a rapid increase in the volume of available information, the ease of its reproduction and transmission, or the growing number and capacity of distribution channels. It also results from the fragmentation of messages, contradictions and inaccuracy of published information, typical for virtual space, as well as low information awareness of recipients and poor skills for comparing and processing available content (Babik 2014: 89). Under these circumstances, the incidental and minimal involvement of citizens, who are unprepared on the merits, in decision-making processes concerning criminal policy (or any other issue) will have little to do with democratic ideals. The precondition for real participation of citizens in law-making processes is that they have an enlightened understanding about which of the proposed solutions will best serve their interests, what their goals are, and what the possible consequences will be for themselves and for others (Dahl 1989: 182). Penal populists, by engaging in the above-mentioned "politics of simplicity", are trying hard to give the impression that the creation of criminal law is actually a trivial process – it is enough to follow "common sense" (that is, punish perpetrators severely, isolate them from "normal" people, and so forth). Meanwhile, issues related to counteracting crime, like other strategic areas of activity of the state (economy, education, new technologies), require long-term consistent solutions supported by relevant expertise. Building a crime control system requires a

[13] On the underutilization of research and different practices of symbolic or biased usage of knowledge in criminal justice policy-making (Johnson et al. 2018). Of course, the use of open call crowdsourcing platforms does not in itself eliminate the various risks associated with the use of scientific knowledge in the process of shaping public policies. The effect of expert consultations always closely relates to what sorts of disciplines and which particular researchers and institutions are included in these systems and what biases they're imbued with (including training, methods, and their limitations). A certain advantage of crowdsourced law-making over the closed-door one is undoubtedly the greater transparency of the process and a wider space for confronting and discussing different positions.

[14] Other terms used to describe the phenomenon include: overabundance, infoglut, data smog, information fatigue, social media fatigue, social media overload, information anxiety, library anxiety, infostress, reading overload, communication overload, cognitive overload, and information assault. The multitude of these terms and research studies on the subject seem to confirm its prominent position among contemporary social problems (Bawden, Robinson 2020).

thorough understanding of the structure and dynamics of that phenomenon and taking into account its psychological, economic and social determinants. It is also essential to be able to estimate the consequences of the solutions adopted, not only for the legal system or the practice of the judiciary, but also for other dimensions of social life. Citizens' opinions should be one of the elements of that complex decision-making process. However, it is best to create circumstances where they are formed on the basis of the maximum possible comprehensive data on the legal and factual context and the potential consequences of the contemplated regulation.

As proponents of CrowdLaw-type solutions clearly state, the involvement of collective intelligence in the law-making process should not be merely reduced to conducting surveys or aggregating opinions, especially those based on intuitions, widespread myths and false stereotypes. "It requires a collective process of mutual enlightenment and argumentation, one in which citizens and public institutions must interact dialogically, and can be measured by its epistemic merits, its capacity to make correct decisions" (Alsina, Martí 2018). In the pursuit of that "enlightenment", the digital environment offers a plethora of useful tools which can help citizens feel less helpless when confronted with information pollution. The aforementioned expert portals, which are meant to serve as tools for systematizing and exchanging knowledge to enrich discussions on the merits of the planned changes to existing laws and the status of legislative work, can be of some help. However, the involvement of professional legislative gatekeepers, responsible for the screening, verification and organization of digital knowledge resources, will in many cases prove insufficient. For most users, who do not specialize in penal sciences or criminology, even such pre-processed data may be difficult to digest. Citizens, even those with an activist streak, rarely have enough time and competence to critically analyze scientific articles or research reports on their own. Therefore, in order to ensure real and well-informed public participation in law-making activities, it seems necessary to also entrust experts with a relevant background with the role of disseminators of knowledge, including: preparation of illustrative, comprehensive output data presenting the law-making context and the advantages and disadvantages of possible legal and non-legal solutions; describing and explaining problems and doubts in an accessible manner; clear analysis and presentation of data and its contextualization; participation in discussions, and so forth.[15] Even if not all participants in the debate are willing to become familiar with the content of such materials, some of the knowledge they contain will be revealed and conveyed during the deliberation process. Perhaps the greatest value of crowdsourcing initiatives lies in creating the "learning moments" (Aitamurto et al. 2014). They do not necessarily lead to a change in views on preferred legal solutions, but they undoubtedly lead to a more in-depth and comprehensive

[15] Various methods of communication are used here: from simple forms (infographics, popular science articles, multimedia presentations, discussion transcriptions) to more interactive ones (video-reports, chats, video-chats, webinars, live-streaming of expert panel discussions, and so forth).

evaluation of available options, also by learning about opposing views. The recent example of a citizens' initiative in Taiwan to reinstate caning as a punishment for repeat drunk driving aptly illustrates this point. The initiative originated as a result of a classic moral panic process which usually precedes penal populist initiatives, following the publicity surrounding several fatal road accidents involving drunk drivers. Supporters of the idea proposed it on the government's *Join* public policy e-participation platform, where it gained well over the required 5,000 votes to be put on the agenda for official consideration. To put the idea to a broader public discussion, the *Pol.is* platform was used.[16] Although initially the participants of the e-discussion seemed to support extreme positions that were difficult to reconcile (in favor of caning, against caning, or in favor of introducing much more severe punishments than caning), over time the discussion took an unexpected turn. In the end, the consensus which emerged from the discussion had nothing to do with its original subject, as the focus shifted to methods of preventing drunk driving or more humane forms of punishment (Horton 2018). Legislative proposals included alcohol locks and confiscating drunk drivers' cars, which came into effect as legal regulations as of 2020 (Wei-chi, Chung 2020).

Obviously, the internet, a medium that is entertaining by nature and oriented towards concise, dynamic, colorful and interactive messages, has accustomed its users to a certain form of communication which, if disregarded, may lead to even the most valuable initiatives failing. Researchers who are somewhat more skeptical of digital public participation in law-making or, more broadly, online political participation, perceive it as a threat consisting of "the trivialization of democracy" (Loader, Vromen, Xenos 2014: 148) and an even stronger erosion of the weakened authority of experts. The risk should by no means be taken lightly, but at the same time it must be pointed out that the migration of public political activity to the internet (especially among the youngest generations) is a social fact, which cannot be reasonably denied.[17] Whether we like it or not, "networked

[16] According to Participedia (yet another product of collective intelligence), *Pol. is* is "an online tool used to gather open-ended feedback from large groups of people. It is well suited to gathering organic, authentic feedback while retaining minority opinions. (…) *Pol. is* overcomes these challenges and produces meaning from open-ended responses. Using the online tool, participants can express their thoughts, and they can also agree and disagree with the comments of others, in real time. As soon as someone writes, others can vote. *Pol.is* runs statistical analysis on these voting patterns, producing opinion groups and identifying the comments that brought each group together, also in real time. It also surfaces comments that found broad consensus among participants." See: https://participedia.net/method/4682 [10.05.2021].

[17] The internet, and social media in particular, create a new public sphere of colossal (and sometimes even decisive) importance. Social media have evolved into a basic channel for communication with citizens and self-promotion activities of politicians. In 2020 leaders of 189 countries (98% of all UN member states) had official social media accounts. Heads of state and government of 163 countries have Twitter accounts, while Facebook records 1,089 private or institutional profiles of political leaders from around the world, with a total of

citizenship"[18] (Bennett, Wells, Frellon 2011; Loader, Vromen, Xenos 2014) is both the present and future of citizens' political engagement, and turning a blind eye to it is more reminiscent of a populist longing for an idealized past rather than a constructive debate on the development of democracy. Therefore, it is vital to provide networked citizens participating in law-making processes with an adequate space for discussion, to equip them with the necessary and comprehensive yet comprehensible knowledge, and to provide expert assistance in organizing and moderating law-making discussions, drafting bills and evaluating laws. It is all the more important as sometimes it is specific groups of citizens that are the most reliable or even the only source of knowledge about the scale and the desired methods of the regulated problem. For example, in 2016 the UK government carried out a Fact Check on sexual harassment in schools. It generated input from well-informed stakeholders – the student victims' experience of harassment – and led to a revision (upward) of the estimated frequency of harassment, with crowdsourced information being included in a subsequent Ministerial Briefing on the matter (Noveck et al. 2020: 158). Moreover, a review of existing initiatives created in the spirit of CrowdLaw shows that making the message more communicative does not necessarily lead to infantilization, and that the diverse range of available forms of communication as well as knowledge and experience sharing provides many opportunities to transmit useful and comprehensive knowledge without overwhelming or intimidating the audience.

Virtual reality also provides an opportunity to carry out suggestive information campaigns, which can not only sharpen citizens' criticism of penal-populist political initiatives and present more reasonable alternatives thereto, but generally promote the idea of civil society, the involvement of citizens in public affairs and the principles of an effective deliberation process based on respect for the opponents' views and openness to their arguments. In the era of participatory culture,

620 million followers (*Twiplomacy* 2020: 2). This contemporary agora is also a place where the political activity of citizens can find its outlet, both in terms of exchange of opinions as well as agitation and mobilization in favor of grass-roots social issues. Their pace and impact can lead to political breakthroughs, as well as to breaking social and political taboos around neglected social problems. This demonstrates the increasingly important potential of the internet in setting the directions of political action and resistance, but also in aggregating and generating knowledge. The ever-increasing involvement, especially among young citizens, in the activities of networked social movements, participation in various social protests, happenings or consumer boycotts, as well as online political discussions, heralds an inevitable change in the current model of citizen participation in democratic processes (Loader, Vromen, Xenos 2014).

[18] Networked citizenship means being ready to act through non-hierarchical, horizontal, initiatives or organizations, rather than traditional political organizations. This model is contrasted with the traditional model of dutiful citizenship in which "a person participate in civic life through organized groups (formal public organizations, institutions), and campaigns, from civic clubs to political parties, while becoming informed via the news, and generally engaging in public life out of a sense of personal duty" (Bennett, Wells, Frellon 2011: 838).

it is as important to educate active users of the media, namely those who creatively change their content and interact with other users, as it is to arouse the criticism of the audience. Empirical studies show many limitations related to digital political participation of citizens, proving at the same time that "the use of digital tools to encourage democratic practices is not simply a 'plug and play' device" (Mitozo, Marques 2019: 373). It is known, among other things, that the involvement of citizens in free online discussions usually has several key features which determine their limited usefulness for the legislative process: comments are often very emotional and general, and participants are more aggressive and prone to polemic due to anonymity (Jankowski, van Os 2004; Papacharissi 2004; Chadwick 2009). There is also a tendency for opinions to polarize and for participants to focus on affiliations and group memberships rather than arguments, reinforced even further by the selection of content profiled based on the user's previous interests (Roy 2012; Duggan, Smith 2016; Goyanes, Borah, Zúñiga 2021). Engagement in various online political initiatives itself, while relatively common, is often short-lived, project-oriented (Loader, Vromen, Xenos 2014: 145), and frequently superficial and symbolic. It also appears that in many cases the engagement is mainly entertainment-oriented rather than driven by a sense of civic duty (Bennett, Wells, Frellon 2011) and self-interested rather than altruistic (Simon et al. 2017: 89–90).[19] Moreover, engagement in political discussions in social media does not necessarily lead to eagerness to participate in other forms of political activity, especially more demanding ones, such as public consultations (Kim 2006).

For all these and many other reasons, effective online public participation in law-making processes calls for the involvement of experts specializing in various fields to make it substantively valuable and sustainable. It is not only desirable to provide users with knowledge on the matters being regulated, as already mentioned, but also to develop their communication, law-making and civic skills and provide expert support in this regard. Based on empirical research, the influence of the platform design and organization on the quality of online deliberation is already known, at least to some extent (Jensen 2003; Janssen, Kies 2005; Friess, Eilders 2015). One of its key drivers is proper moderation and support for citizen engagement during online discussions. In general, citizens are more willing to join

[19] Research on people's motivation to engage in volunteering and other forms of political and social participation (such as involvement in political initiatives, social movements, and so forth) points to personal interest, a desire to make a change, life experiences, family background, exposure to civil society and a desire to make connections or new friends as the most important factors. On the other hand, studies on participation in crowdsourcing projects, such as open source software development or innovation challenge prizes, show that the key drivers include the desire to improve their reputation or develop skills, as well as expected reciprocity or future benefits (preferably tangible, immediate and visible to the wider community of participants). The few studies on the drivers behind engagement in various digital democracy initiatives confirm that a purely altruistic engagement is equally rare here (Simon et al. 2017: 89–90).

moderated discussions (Wise, Hamman, Thorson 2006) and their level, bearing in mind the criteria of rationality, inclusiveness, and respect towards other participants, is deemed to be higher than that of unmoderated discussions (Friess, Eilders 2015). What is extremely important, however, is that moderation requires a high level of knowledge, excellent communication skills, and sensitivity, as manifestations of incompetence or bias may permanently discourage a user from participating in this particular initiative or from participating at all. As Janssen and Kies (2005: 321) rightly point out, "The moderator can be a 'censor' – for example, by removing opinions that are at odds with the main ideology of the discussion space – or he can be 'promoter of deliberation' by, for example, implementing a system of synthesis of debate, by giving more visibility to minority opinions, by offering background information related to the topics etc." Professional management of a debate not only contributes to the creation of more valuable content, but also enables its more efficient aggregation and organization, and translation into a form useful for parliamentary work. LabHacker /E-Democracia in Brazil uses 200 volunteer legislative consultants who stimulate and streamline e-discussions and respond to disruptive user behavior, solve problems using the platform, and refer to useful information when necessary. Additionally, with their legal background, they serve as "legislative translators" between citizens and policy makers, translating the solutions developed in the discussion process into legalese.

"When designed well, CrowdLaw may enable engagement that is thoughtful, inclusive, informed but also efficient, manageable and sustainable." CrowdLaw Manifesto (n.d.) which is the source of this quote, repeatedly underlines the importance of the optimum design and management of e-participation platforms with a view to ultimately improving the quality of law. This is a massive challenge for at least three reasons. First of all, knowledge on the subject is constantly evolving and, in addition to purely technological problems, issues related to enlarging the reach of the platforms and enhancing the e-participation experience for both the organizers of the project and its participants (users) also require ongoing evaluation and adjustments. Obviously, a prerequisite here is to offer a user-friendly tool (a software product, a website, an app) that is attractive and intuitive, while at the same time tailored to the complex needs connected with various forms of participation (data crowdsourcing, deliberation, decision-making, bill drafting, evaluation, and so forth). It is possible – and recommended good practice – to use existing technological solutions to that end, but optimum selection and adaptation to the needs of a particular initiative also call for the employment of knowledge and experience. It is therefore necessary to keep a watchful eye on the ever-expanding knowledge about the advances of e-democracy tools and initiatives, and to implement continuous innovation at different levels of the system. For example, we can point to several dilemmas that still require in-depth research and may need to be resolved on an ongoing basis to ensure end success of a given initiative as a whole: How to ensure the representativeness of public opinion? How to reduce the effects of digital exclusion? What tasks should the crowd be entrusted

with, at what stage of the law-making process and with which digital tools? How to organize the deliberation process (the question of synchronicity, anonymity, feedback, providing ongoing substantive and technical support, etc.)? How can the system be protected against abuse of policy or from motivated interest groups (e.g. by using bots)?

At the same time, there is now no doubt that even the most eye-catching top-quality interface alone cannot guarantee citizen engagement. "Obviously, there are many other ways for people to spend their time online. Therefore, citizens do not only have to learn about the existence of tools but also understand why engaging actually makes a difference to their lives. In this context, public administrations (…) need to take more bold action when it comes to citizenship education and raising awareness of public decision making" (Grazian, Nahr 2020: 47). Comprehensive outreach and training activities are needed not only in the area of specific e-democracy tools, as well as the goals and principles of particular initiatives, but also towards a better understanding of local and national political decision-making and law-making processes. It is equally important to promote the very idea of e-participation and crowdlaw-making and the individual and collective benefits they offer (Capone, Noveck 2017). However, a question still remains how to do this effectively, which calls for an in-depth scholarly reflection. The need for certain additional incentives for participation should be also reconsidered, given the aforementioned non-altruistic motivations of those engaging in e-democracy initiatives. Certain limited and rather ambiguous conclusions on this subject can be drawn, for example, from research on the engagement of citizens (employees, consumers) in various creative idea-sharing contest and crowdsourcing initiatives. We know, for example, that the type of prize offered (monetary versus non-monetary), prize amount (low versus high), prize structure (winner-takes-it-all versus multiple prizes), award system (for participation or for novelty/creativity) and the manner of evaluating the contribution (objective versus subjective) may be of significance, with noticeable differences as regards their influence on the users' eagerness to participate, and on the quality of the contribution offered, that is the proposed idea or solution (Acar 2018; Kireyev 2020). We also observe a dynamic increase in knowledge about using gamification to foster e-participation, i.e. designing systems, services, and processes in a way that provides positive, engaging experiences similar to those implemented between gamers (Hassan, Hamari 2020). However, this is still an area in urgent need of future research.

Notwithstanding these complexities, which call for further reflection and experimentation, there is no doubt that broad and diversified engagement in online participation will only be possible if a given initiative manages to win public trust. This is in turn inextricably linked to remaining largely independent of institutional politics and partisan interest groups, and becomes problematic for at least two reasons. First, developing and operating a well-functioning crowdlaw-making platform requires massive financial resources. Even if an initiative emerges from the grassroots, and is funded through private sponsorship, crowdfunding

or grants, sooner or later, as its reach and functionality expand, it may require large, guaranteed public funding. Secondly, taking into account the area of activity (law-making), closely intertwined with existing state structures and institutions, having a real impact on the law and thus reinforcing citizens' belief in their power to make a difference practically excludes a genuine separation from politics. One of the basic recommendations for developers of digital democracy initiatives is: "Don't engage for engagement's sake" (Simon et al. 2017: 67). To ensure sustainable citizen engagement in law-making processes and policy decisions, citizens must be reassured that their contribution has at least been acknowledged and taken into consideration, even if the solutions ultimately adopted do not fully meet their expectations. The only way to achieve this is to ensure broad and cross-party engagement of decision-makers who are willing to participate in the ongoing exchange of views with the users at different stages of the law-making process (the earlier, the better[20]) and to welcome their ideas with openness and real interest.[21]

Merging collective intelligence with established knowledge

And at this point, alongside a real chance for the political reengagement of citizens and social legitimization of law, the greatest potential threat emerges, linked to the inexorably growing importance of digital crowdlaw-making. Due to the immature stage of development of the technology, but also due to its high vulnerability to potential abuse, otherwise legitimate ideals aiming at enhancing the quality of law and its social legitimization can easily devolve into blatant populism. Although

[20] It is recommended that citizens be involved in the legislative process as early as possible. A sense of empowerment (making a difference) and, at the same time, readiness to become involved will be much higher at an early stage when the assumptions of regulations are being formulated, ideas are being shared or the legal text is being drafted, rather than merely giving an opportunity for citizens to express their views on ready-made solutions after they are formulated.

[21] The most intuitive way to empower citizens is to reassure them that their decisions will be binding on the rulers. However, this is not always possible or desirable. Other methods include: engaging citizens at an early stage in the law-making process, providing citizens with clear, easy access to information about the next stages of the crowdlaw-making process and – probably the most important – comprehensive feedback on their proposal. As emphasized in the evaluation report on the crowdsourced off-road traffic law experiment in Finland: "Maybe the main difference between the traditional law-making process and this new one will be that both the idea-generating and the evaluating crowds will receive a reasoned justification from the law-makers as to why their ideas were integrated into the law, or rejected. Public justification is a core ideal of deliberative democracy and we trust that public shared reasoning will ensure transparency in the law-making process. If this part of the experiment is done well, we believe it will keep the people motivated to participate in further crowdsourcing experiments" (Aitamurto et al. 2014: 83).

many initiatives in the area of crowdlaw-making are developing in a very promising direction, the experience of some countries shows that this direction may easily take a turn along with a change of political views. For example, in Brazil under the presidency of Jair Bolsonaro there are already concerns about the possibility of instrumental use of the platform for populist purposes (Noveck et al. 2020: 136) and more general concerns that the state is "sliding into techno-authoritarianism" (Kemeny 2020). Similar suggestions – this time under the label of "high-tech populism" – also appear for another CrowdLaw project with a wide reach (over 7.8 million registered users), namely MyGov India (Zain 2019). Solutions so strongly pertaining to the idea of a plebiscitary democracy provide a fertile ground for populist instrumentalization. After all, these initiatives work as per their grand assumptions only for as long as there is the political will to do so, and for as long as thinking in terms of the public interest (and not in terms of partisan or particular interests) prevails among political decision-makers, with the will to implement solutions that are genuinely effective and necessary (and not merely politically profitable). Otherwise, virtually all the populist efforts mentioned in the first part of this article can easily serve to undermine the collective efforts of crowdlaw makers. It is enough to question, for instance, the democratic nature of the process, the security of data collected, or the objectivity of moderators or educational materials. It is therefore extremely important to consider not only the design and management of e-participation tools, areas which currently receive most attention, but also give more thought to the socio-political context of e-participation. It is not sufficient to provide a user-friendly system which works very well under a general pro-democratic consensus, but to make it as stable and resistant to populist abuse as possible.

Therefore, the sustainable success of CrowdLaw-type initiatives depends on building a stable "network of public managers and officials, legal scholars, political theorists, computer scientists, platform and app makers, and activists to design, implement and evaluate new tech-enabled practices of public engagement in law and policymaking is fundamental to coalesce the nascent CrowdLaw community for mutual learning and collaboration and in support of more research in the field" (Alsina, Martí 2018: 347). Ultimately, they should focus on embedding new crowdsourcing, deliberative forms of law-making into existing public structures and state regulations as well as political culture, thus making it "the new normal" (Simon et al. 2017: 91). This is a challenge for society at large, in particular for policy makers, scholars and experts representing various fields of study, and for citizens themselves. The former will be responsible, when the time comes, for "opening up the 'black box' of legislative processes": shaping a new culture of political debate assuming ever-increasing transparency of political processes, a strong emphasis on an open dialogue with citizens, creating a system of public (but at the same time apolitical) support for e-participation platforms, increasing the importance of scientific evidence in the law-making process, and the evaluation of public policies and impact studies for regulatory changes (Simon et al. 2017: 85). Many initiatives

of this type have emerged in response to a political crisis[22] which triggered a more in-depth change across political divides. It is worth ensuring that over time such short-lived trends are replaced by a methodical evolution of the system with a strong emphasis on creation of a new participatory political culture. This should be accompanied by cross-sectoral, interdisciplinary cooperation of governmental agencies, supported by a system of incentives for the officials responsible for implementing and promoting the new methods. It is equally important to create an innovation-friendly atmosphere at law-making institutions, or a "culture of experimentation" (Simon et al. 2017: 91), which, while allowing for inevitable failures and errors with a limited impact in the phase of intensive development, would foster creativity and the search for optimal solutions in specific political-cultural contexts.

The widely anticipated crisis for the current representative democracy model is accompanied by an intriguing trend: the emergence of strong grass-root social movements that can effectively mobilize a great number of citizens (including young people who have so far shunned any political involvement) to engage in favor of specific social problems. Their prevalence and visibility – for example in the form of virtual communities in social media (*The power* 2021), digital grassroots participation tools (Grazian, Nahr 2020), crowdsourcing and crowdfunding initiatives, protests and demonstrations – prove that the main challenge faced by contemporary democracies lies most likely not in the political apathy of citizens, but in finding new forms of harnessing their energy within the system. As Sgueo (2020: I) aptly summarized it, "global demand for participation is alive and kicking". At the same time, however, it is difficult to deny that Nichols (2018: 227) is at least partially right as he states pessimistically: "Laypeople complain about the rule of experts and they demand greater involvement in complicated national questions, but many of them only express their anger and make these demands after abdicating their own important role in the process: namely, to stay informed namely, to stay informed." He is echoed by the voices of concerned criminologist-insulationists, also known as penal elitists (Shammas 2020) who, fearing an undereducated, irrational, capricious and retaliatory crowd, favor leaving penal policymaking only in the hands of professionals – academic experts and criminal justice practitioners.

The complete separation of criminal policy from the influence of public opinion seems, however, a very short-sighted idea, which in the end can only strengthen the punitive and populist attitudes of citizens. It not only reduces the chances of social acceptance of the imposed "elistic" law but also does not provide an opportunity to work through collective frustration caused by crime and thus restore social order. „Instead" – as rightly postulated by Berk (2021: 85) – "we might cast about for

[22] Interestingly, being a response to crisis is also considered by Taggart (2000: 5) as one of the six components of an ideal type of populism. In his view, populism is not typical of stable, well-structured systems and is usually a symptom of times of radical change. Perhaps this should all the more lead to the conclusion that depending on the quality of their implementation, crowdsourcing law-making initiatives may either turn out to be a valuable alternative to populism, or its ideal emanation.

organizational arrangements that channel public anger into reasonable, rational politics. The pressing question is not how to keep the public at bay, but how to create the kind of reflective conditions so that reasoned opinion can be brought into state punishment". Well-designed crowdsourcing mechanisms in law-making – along with state support for restorative justice solutions – appear to be the most promising strategy available today to transform public resentment about crime into something constructive. Moreover, they offer ample opportunities to develop a social sensitivity to the meaning of punishment and understanding the values hat it communicates. The severe consequences and negative social significance of penalties require citizens to assume full responsibility for the policies and institutions that enforce them. Punishment in the name of public opinion should be understood and approved by it in a rational, open, on-going and pluralism of values process (Dzur, Mirchandani 2007). Finally, deliberation gives citizens the opportunity to learn alternatives to their own views on punishment and criminal justice, to better understand the limitations that law enforcement may encounter in practice, and to become aware of "wider interests and implications which must be taken into account, weighed-up and accorded to various priorities. if one is to make sound penal policies" (Johnstone 2000: 168). At the same time, responsible citizen engagement in decision-making and law-making processes should evoke a conviction about the resulting serious responsibility of citizens and the need to improve their competence in that area. This is essential in the case of criminal law, as it drastically interferes with human rights and fundamental freedoms.

One last point requires clear highlighting: as penal experts and legislators should not isolate themselves from the public, so the latter should not renounce expert support. Proper transmission of the collective wisdom of citizens will never be achieved without remaining open to "traditional" wisdom derived from scientific evidence and professional experience. This openness should be expected from both policy makers and citizens. At first glance, the idea of crowdsourcing seems to marginalize the importance of classically understood knowledge and experts in favor of "collective wisdom". In reality, whether e-participation platforms actually become a real medium for transferring knowledge and the views of citizens, or just another façade that only feigns their inclusion in decision-making processes, will depend primarily on the level and quality of involvement of classically understood experts representing various fields of study. Their role should therefore not be limited to commenting on or criticizing ready-made solutions, but should already be in progress at the stage of their design, through implementation, day-to-day operation, and finally the evaluation and introduction of necessary innovations. The challenge of citizens' e-participation in the process of law-making involves researchers and specialists in various disciplines assuming new roles, where reliable performance is the only guarantee of the achieving two of the most important objectives: improving the quality of law and strengthening its social legitimization. As platform designers and managers, they should be involved in creating and improving e-participation infrastructure, along with its integration into existing

legal and organizational mechanisms of legal decision-making. Of equal importance is their engagement in moderating particular initiatives, where they, as promoters of deliberation, not only validate such initiatives by promoting a culture of dialogue and enforcing the rules of constructive debate, but can also stimulate democratic nature of the process (by including groups under threat of exclusion) and high quality outcomes (by making sure that positions of various interest groups and points of view are well balanced), and finally can increase the likelihood of their implementation into the legal framework (by involving policy makers and public service employees interested in the issues under debate). Of course, they can also make a great personal contribution as participants of crowdsourcing and crowdlaw-making initiatives, including both those open to the public or dedicated to experts in a given field, by raising the substantive quality of the discussion or enhancing its scientific basis. Incidentally, the same effect can be achieved by assuming the difficult role of knowledge brokers – "the missing link in the evidence to action chain" (Ward, House, Hamer 2009) – who transfer complex research evidence into directives for practical action or translate laypeople's postulates and suggestions into legalese. And finally, in the event of an attempted use of crowdsourcing platforms in an instrumental and biased way, researchers can play the familiar role of whistleblowers and denouncers of (penal) populist actions.

CrowdLaw provides great tools that enable navigating a third way, between penal populism and penal elitism. There will probably be moments and places when it turns out to be another democratic utopian ideal that looks good in theory but fails in practice. However, given the urgent need to find new forms of social participation in the law-making process while maintaining its scientific foundations – to paraphrase a classic – for now, it may be the worst option we have, except for all the others.

Declaration of Conflict Interests

The author declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

Funding

The author(s) received no specific funding for this work.

References

Acar O.A. (2018). 'Harnessing the creative potential of consumers: Money, participation, and creativity in idea crowdsourcing'. *Marketing Letters* 29, pp. 177–188.

Aitamurto T., Landemore H., Lee D., and Goel A. (2014). *Crowdsourced Off-Road Traffic Law Experiment In Finland: Report about Idea Crowdsourcing and Evaluation*. Helsinki: Committee of the Future. Available online: https://www.eduskunta.fi/FI/naineduskuntatoimii/julkaisut/Documents/tuvj_1+2014.pdf [10.05.2021].

Alsina V. and Martí J.L. (2018). 'The birth of the CrowdLaw movement: Tech-based citizen participation, legitimacy and the quality of lawmaking'. *Analyse & Kritik* 40(2), pp. 337–358.

Babik W. (2014). *Ekologia informacji* [Information ecology]. Kraków: Wydawnictwo Uniwersytetu Jagiellońskiego.

Bawden D. and Robinson L. (2020). '*Information overload: An introduction*'. In *Oxford Research Encyclopedia of Politics*. Available online: https://doi.org/10.1093/acrefore/9780190228637.013.1360 [10.05.2021].

Bennett W.L., Wells Ch., and Freelon D. (2011). 'Communicating civic engagement: Contrasting models of citizenship in the youth web sphere'. *Journal of Communication* 61(5), pp. 835–856.

Berk C.D (2021). 'Must penal law be insulated from public influence?'. *Law and Philos* 40(1), pp. 67–87.

Bland T.B. (2020). *Predators and Principles: Think Tank Influence, Media Visibility, and Political Partisanship*. [Richmond]: Virginia Commonwealth University. Available online: https://scholarscompass.vcu.edu/etd/6344/ [10.05.2021].

Chadwick A. (2009). 'Web 2.0: New challenges for the study of e-democracy in an era of informational exuberance'. *Journal of Law and Policy for the Information Society* 4(3), pp. 9–42.

Canovan M. (1981). *Populism*. New York: Harcourt Brace Javonovich.

Canovan M. (2002). '*Taking politics to the people: Populism as the ideology of democracy*'. In Y. Mény and Y. Surel (eds.) *Democracies and the Populist Challenge*. London: Palgrave Macmillan, pp. 25–44.

Czapska J. (2008). '*Public discourse in creating criminal policy.*' In T. Biernat, M. Zirk-Sadowski (eds.) *Politics of Law and Legal Policy. Between Modern and Post-Modern Jurisprudence*. Warszawa: Wolters Kluwer, pp. 230–257.

Dahl R.A. (1989). *Democracy and Its Critics.* New Haven: Yale University Press.

Duggan M. and Smith A. (2016). *The Political Environment on Social Media*. Pew Research Center. Available online: https://www.pewresearch.org/internet/wp-content/uploads/sites/9/2016/10/PI_2016.10.25_Politics-and-Social-Media_FINAL.pdf [10.05.2021].

Dzur A.W. and Mirchandani R. (2007). 'Punishment and democracy: The role of public deliberation'. *Punishment & Society* 9(2), pp. 151–175.

Friess D. and Eilders C. (2015). 'A systematic review of online deliberation research'. *Policy & Internet* 7(3), pp. 319–339.

Goyanes M., Borah P., and Zúñiga H.G. de (2021). 'Social media filtering and democracy: Effects of social media news use and uncivil political discussions on social media unfriending'. *Computers in Human Behavior* 120, pp. 1–9.

Grazian F. and Nahr H. (2020). *Next Level Participation: Citizen-Driven E-Democracy Tools*. Brussels: European Liberal Forum. Available online: https://ecas.b-cdn.net/wp-content/uploads/2021/02/Next-level-participation_0302_fin.pdf [10.05.2021].

Hassan L. and Hamari J. (2020). 'Gameful civic engagement: A review of the literature on gamification of e-participation'. *Government Information Quarterly* 37(3), pp. 1–21.

Jankowski N.W. and Os R. van (2004). '*Internet-based political discourse: A case study of electronic democracy in Hoogeveen*'. In P.M. Shane (ed.), *Democracy Online: The Prospect for Political Renewal Through the Internet*. London: Routledge, pp. 181–194.

Janssen D. and Kies R. (2005). 'Online forums and deliberative democracy'. *Acta Politica* 40(3), pp. 317–355.

Jensen M.J. (2003). 'Virtual democratic dialogue? Bringing together citizens and politicians'. *Information Polity* 8 (1–2), pp. 29–47.

Johnson L.M. et al. (2018). 'Use of research evidence by criminal justice professionals'. *Justice Policy Journal* 16(2), pp. 1–23.

Johnstone G. (2000). 'Penal policy making. Elitist, populist or participatory?'. *Punishment & Society* 2(2), pp. 161–180.

Joński K. and Rogowski W. (2020). 'Legislative practice and the 'judiciary reforms' in post-2015 Poland – analysis of the law-making process'. *International Journal for Court Administration* 11(2), pp. 3–12.

Kavanagh J. and Rich M.D. (2018). *Truth Decay*. Santa Monica, CA: RAND Corporation.

Keen A. (2007). *The Cult of the Amateur: How Today's Internet Is Killing Our Culture*. New York: Doubleday.

Kim J. (2006). 'The impact of Internet use patterns on political engagement: A focus on online deliberation and virtual social capital'. *Information Polity* 11(1), pp. 35–49.

Kireyev P. (2020). 'Markets for ideas: Prize structure, entry limits, and the design of ideation contests'. *The RAND Journal of Economics* 51, pp. 563–588.

Konopacki M., Albu D., Cerqueira D., and Tavares T.G. (2020) '*Mudamos: A mobile app to ignite an integrated engagement framewor*k'. In M.P. Rodríguez Bolívar and M.E. Cortés Cediel (eds.) *Digital Government and Achieving E-Public Participation: Emerging Research and Opportunities*. Hershey: IGI Global, pp. 184–205.

Loader B.D., Vromen A., and Xenos M.A. (2014). 'The networked young citizen: Social media, political participation and civic engagement'. *Information, Communication & Society* 17(2), pp. 143–150.

Mitozo I. and Marques F.P. (2019). 'Context matters! Looking beyond platform structure to understand citizen deliberation on Brazil's Portal e-Democracia'. *Policy & Internet* 11(3), pp. 370–390.

Moore G., Redman S., Rudge S., and Haynes A. (2018). 'Do policy-makers find commissioned rapid reviews useful?'. *Health Research Policy and Systems* 16(1), pp. 17–31. Available online: https://health-policy-systems.biomedcentral.com/articles/10.1186/s12961-018-0293-1 [18.08.2021].

Mudde C. (2004). 'The populist zeitgeist'. *Government and Opposition* 39(4), pp. 541–563.

Nichols T. (2018). *The Death of Expertise*. New York: Oxford University Press.

Noveck B.S., Dinesh A., Rivera Muńozcano B., Gambrell D., Joerger G., Gimeno E., Konopacki M., Ryan M., Kornberg M., Harvey R., DeJohn S., and Alsina V. (2020). *Crowdlaw for Congress. Strategies for 21st Century Lawmaking*. The Governance Lab. Available online: https://congress.crowd.law/files/crowdlaw_playbook_Oct2020.pdf [10.05.2021].

Noveck B.S. (2018). 'Crowdlaw: Collective intelligence and lawmaking'. *Analyse & Kritik* 40(2), pp. 359–380.

Papacharissi Z. (2004). 'Democracy online: Civility, politeness, and the democratic potential of online political discussion groups'. *New Media & Society* 6(2), pp. 259–283.

Pratt J. (2007). *Penal Populism*. New York: Routledge.

Pratt J. and Clark M. (2005). 'Penal populism in New Zealand'. *Punishment & Society* 7(3), pp. 303–322.

Pratt J. and Miao M. (2017). *Penal Populism: The End of Reason*. Hong Kong: Chinese University of. Hong Kong Faculty of Law. Available online: https://www.researchgate.net/publication/312594772 [10.05.2021].

Rich A. (2004). *Think Tanks, Public Policy, and the Politics of Expertise*. Cambridge: Cambridge University Press.

Roberts J.V., Stalans L.J., Indermaur D., and Hough M. (2003) *Penal Populism and Public Opinion: Lessons from Five Countries*. New York: Oxford University Press.

Rowe I. (2015). 'Civility 2.0: A comparative analysis of incivility in online political discussion'. *Information*, *Communication & Society* 18, pp. 121–138.

Roy J. (2012). 'Social media's democratic paradox: Lessons from Canada'. *European Journal of ePractice* 16, pp. 5–15.

Sgueo G. (2020). 'Digital democracy: Is the future of civic engagement online?'. *European Parliament*. Available online: http://www.gianlucasgueo.it/wp-content/uploads/2020/06/The-Practice-of-Democracy.pdf [10.05.2021].

Shammas V.L. (2020). 'Penal elitism: Anatomy of a professorial ideology'. *Critical Criminology* 28**,** pp. 759–774.

Shils E.A. (1956). *The Torment of Secrecy: The Background and Consequences of American Security Policies*. Glencoe, Illinois: The Free Press.

Simon J., Bass T., Boelman V., and Mulgan G. (2017). *Digital Democracy: The Tools Transforming Political Engagement.* London: Nesta.

Stone D. (2013). *Knowledge Actors and Transnational Governance: The Private–Public Policy Nexus in the Global Agora*. New York: Palgrave Macmillan.

Szafrańska M. (2013). '*Penal populism as a manifestation of the neutralization of values in penal law*'. In K. Pałecki (ed.) *Neutralization of Values in Law*. Warszawa: Wolters Kluwer, pp. 266–300.

Szafrańska M. (2015). *Penalny populizm a media* [Penal populism and the media]. Kraków: Wydawnictwo Uniwersytetu Jagiellońskiego.

Szpunar M. (2012). *Nowe-stare medium* [The new-old media]. Warszawa: Wydawnictwo IFIS PAN.

Taggart P. (2002). '*Populism and the pathology of representative politics*'. In Y. Mény and Y. Surel (eds.) *Democracies and the Populist Challenge*. London: Palgrave Macmillan, pp. 62–80.

Taggart P. (2000). *Populism*. Buckingham: Open University Press.

The constitutional crisis in Poland 2015-2016 (2016). Helsinki Foundation for Human Rights. Available online: https://www.hfhr.pl/wp-content/uploads/2016/09/HFHR_The-constitutional-crisis-in-Poland-2015-2016.pdf [10.05.2021].

Turner L. (2014). 'Penal populism, deliberative methods, and the production of "public opinion" on crime and punishment'. *The Good Society* 23(1), pp. 87–102.

Ustawa w 2 godziny 20 minut. XIII Komunikat Obywatelskiego Forum Legislacji podsumowujący aktywność legislacyjną rządów Zjednoczonej Prawicy, Sejmu VIII kadencji i Senatu IX kadencji (2015–2019) [Law in 2 hours and 20 minutes. XIII Report of the Citizens' Legislation Forum Summarizing the Legislative Activity of the Government of the United Right, the Sejm of the 8th Term and the Senate of the 9th Term (2015-2019)] (2019). Stefan Batory Foundation. Available online: https://www.batory.org.pl/upload/files/Programy%20operacyjne/Forum%20Idei/Komunikat_2019-1.pdf [10.05.2021].

Ward V., House A., and Hamer S. (2009). 'Knowledge brokering: The missing link in the evidence to action chain?'. *Evidence & Policy* 5(3), pp. 267–279.

Wiles P. (1969). '*A syndrome, not a doctrine: Some elementary theses on populism*'. In G. Ionescu and E. Gellner (eds) *Populism: Its meaning and National Characteristics.* London: Weidenfeld & Nicolson, pp. 166–179.

Wise K., Hamman B., and Thorson K. (2006). 'Moderation, response rate, and message interactivity: Features of online communities and their effects on intent to participate'. *Journal of Computer-Mediated Communication* 12(1), pp. 24–41.

Wodak R. (2015). *The Politics of Fear: What Right-Wing Populist Discourses Mean*. London: Sage.

Zain A. (2019). 'Rise of modi's tech-populism in India'. *Journal of Cultural Studies* 6(1), pp. 199–208.

Internet sources

About College What works (n.d.). College of Policing. Available online: https://whatworks.college.police.uk/About/Pages/default.aspx [10.05.2021].

About FAS (n.d.). Federation of American Scientists. Available online: https://fas.org/about-fas/ [10.05.2021].

Capone G. and Noveck B. (2017). *CrowdLaw: Online Public Participation in Lawmaking*. Available online: https://crowd.law/crowdlaw-model-legislation-annotated-30f864593e2 [10.05.2021].

CrowdLaw Catalog. (n.d.). Governence Lab. Available online: https://catalog.crowd.law/ [10.05.2021].

CrowdLaw: How to Design a Public Participation Initiative for Lawmaking (2018). Abierto al Público. Available online: https://blogs.iadb.org/conocimiento-abierto/en/crowdlaw-how-to-design-a-public-participation-initiative-for-lawmaking/ [10.05.2021].

CrowdLaw Manifesto (n.d.). Governence Lab. Available online: https://manifesto.crowd.law/ [10.05.2021].

FAS Congressional Science Policy Initiative (n.d.). Available online: https://fas.org/congressional-science-policy-initiative/ [10.05.2021].

Guidance. What Works Network (n.d.). Gov.uk. Available online: https://www.gov.uk/guidance/what-works-network [10.05.2021].

Hierlemann D. and Roch S. (2020). *Digital Participation in Taiwan. Takeaways for Europe*. Participo. Available online: https://medium.com/participo/digital-participation-in-taiwan-8f5b020afbc4 [18.08.2021].

Horton Ch. (2018). *The Simple but Ingenious System Taiwan Uses to Crowdsource its Laws*. MIT Technology Review. Available online: https://www.technologyreview.com/2018/08/21/240284/the-simple-but-ingenious-system-taiwan-uses-to-crowdsource-its-laws/ [10.05.2021].

Kemeny R. (2020). *Brazil Is Sliding into Techno-Authoritarianism*. MIT Technology Review. Available online: https://www.technologyreview.com/2020/08/19/1007094/brazil-bolsonaro-data-privacy-cadastro-base/ [access: 10.05.2021].

Method Pol.is (n.d.) Participedia.net. Available online: https://participedia.net/method/4682 [10.05.2021].

Participate on Join.gov.tw to Make Taiwan Better (2017). AmCham Taiwan. Available online: https://amcham.com.tw/2017/02/participate-join-gov-tw-make-taiwan-better/ [10.05.2021].

Root J. (2015). *How Do we Maximize and Sustain Participation in the #CrowdLaw Process?,* The GovLab. Available online: https://blog.thegovlab.org/post/how-do-we-maximize-and-sustain-participation-in-the-crowdlaw-process [10.05.2021].

The Power of Virtual Communities (2021). Governence Lab. Available online: https://virtual-communities.thegovlab.org/files/DTR_report_en_EN.pdf [10.05.2021].

Twiplomacy 2020 (2020). Twiplomacy. Available online: https://twiplomacy.com/wp-content/uploads/2020/07/Twiplomacy-Study-2020.pdf [access: 10.05.2021].

vTaiwan (n.d.). vTaiwan. Available online: https://vtaiwan.tw/ [10.05.2021].

Wei-chi Ch. and Chung J. (2020). *New Traffic Rules Target Drunk Drivers*. Taipei Times. Available online: http://www.taipeitimes.com/News/front/archives/2020/03/01/2003731854 [access: 10.05.2021].

Where do we go as a society? Let's think and work together (n.d.). vTaiwan. Available online: https://info.vtaiwan.tw/ [10.05.2021].