

PROVA SEMESTRAL FINAL: TAKE-HOME EXAM
Questão para o *paper* de conclusão do curso

Considere os cinco textos abaixo. A partir deles e de um ou mais textos obrigatórios do programa, de acordo com as instruções sobre o paper disponíveis no MOODLE, elabore o seu texto sobre o tema:

“No contexto da globalização financeira, qual deve ser o principal papel do direito, do pensamento jurídico e dos juristas nas sociedades conhecidas como *democracias capitalistas* contemporâneas?”

I

“Revista: É um exagero exigir que todo professor universitário seja doutor?”

“*Eunice Durham*: Há uma distinção que precisa ser mantida com a área profissional. No ensino de direito, por exemplo, é preciso ter grandes praticantes dando aula e não simplesmente alguém com conhecimento teórico. Você não vai formar pesquisadores, vai formar advogados. Tive grande amizade com um diretor da Escola Politécnica, o Décio Zagottis, uma pessoa muito corajosa. Fizemos uma reunião na Adusp sobre tempo integral. Ele queria dividir o tempo integral em dois: o integralão e o integralinho, com possibilidade maior de trabalhar fora da Politécnica. Eu argumentei contra. Na saída, ele veio falar comigo. Disse: ‘Eunice, sou um especialista em grandes estruturas. Basicamente, grandes pontes e grandes prédios. Como vou aprender a fazer isso dentro da universidade? Não posso fazer pontes aqui para treinar’. Aquele argumento para mim foi definitivo.”

(Entrevista da antropóloga Eunice Durham à revista *Pesquisa FAPESP*, abril de 2016, <http://revistapesquisa.fapesp.br/2016/04/19/eunice-durham-modelos-flexiveis-de-universidade/>)

II

Today the problem has shifted from ignorance to uncertainty. The impediment to decision making is not the inability of the official outsiders to know what the insider actors are about. Rather it is the inability of all – insiders and outsiders alike – to confidently identify the risks and opportunities they are likely to face. Practically speaking the increase in volatility of technologies and markets means that yesterday's solutions are a poor guide to tomorrow's problems and the best response to current problems may arise in a domain until now considered irrelevant. Problem solving therefore goes hand in hand with the search for new potential collaborators: the opening of lead firms in industrial districts to new and unfamiliar partners is a case in point. The public response to pervasive uncertainty therefore is not more extensive polling of insiders but the organization of joint inquiry into potential risks and how to mitigate them. Recall that this is precisely what pragmatist institutions in the public and private sectors do: on the assumption that no actor has a sufficiently panoramic view of a problem area to predict where breakdown will occur, or where opportunities for improvement exist, these institutions use naturally occurring or deliberately induced disruptions in operations to trigger searches for both. A further effect of the rise in uncertainty has been to undermine the transfer based welfare state emerging in the US in Dewey's day. In a relatively stable world it is possible to foresee periodic disruptions, such as seasonal or cyclical downturns in labor markets, and insure against them. But uncertainty gives rise to non-actuarial risk: harms whose incidence is so unpredictable that it is impossible for those at risk to create an insurance pool sufficient to indemnify those who incur losses. The increase in structural unemployment illustrates the problem. When radical shifts in product design or production technology permanently devalue whole trades and skill categories (a shift to computer-controlled manufacturing that displaces assembly-line workers and machinists), unemployment insurance, by itself, is not a bridge to another job in the same line of work, or indeed to any job at all. The effective response to these conditions is to help individuals and families to self-insure against risks by enabling them to acquire the capacities they need to surmount the disruptions they face: the general skills that ensure employability in a wide and changing range of jobs. Social solidarity depends less centrally on the provision of various forms of social insurance, and more on the provision of capacitating or enabling services that foster the acquisition of the skills that underpin self-reliance. In prospect, at least a persistent increase in uncertainty favors the emergence of a world congenial to Dewey – a world in which mutual learning and joint problem solving give rise to a democratic community.

Charles Sabel, "Dewey, democracy and democratic experimentalism", *Contemporary Pragmatism* 9, n. 2 (2012): 35-55.

III

Technology

Foxconn replaces '60,000 factory workers with robots'

By Jane Wakefield Technology reporter
25 May 2016

From the section [Technology](#)

<http://www.bbc.com/news/technology-36376966>



Workers have complained in the past about conditions in Foxconn's factories

Apple and Samsung supplier Foxconn has reportedly replaced 60,000 factory workers with robots.

One factory has "reduced employee strength from 110,000 to 50,000 thanks to the introduction of robots", a government official told [the South China Morning Post](#).

Xu Yulian, head of publicity for the Kunshan region, added: "More companies are likely to follow suit."

China is investing heavily in a robot workforce.

In a statement to the BBC, Foxconn Technology Group confirmed that it was automating "many of the manufacturing tasks associated with our operations" but denied that it meant long-term job losses.

"We are applying robotics engineering and other innovative manufacturing technologies to replace repetitive tasks previously done by employees, and through training, also enable our employees to focus on higher value-added elements in the manufacturing process, such as research and development, process control and quality control.

"We will continue to harness automation and manpower in our manufacturing operations, and we expect to maintain our significant workforce in China."

Since September 2014, 505 factories across Dongguan, in the Guangdong province, have invested 4.2bn yuan (£430m) in robots, aiming to replace thousands of workers.

Kunshan, Jiangsu province, is a manufacturing hub for the electronics industry.

Economists have issued dire warnings about how automation will affect the job market, with one report, from consultants Deloitte in partnership with Oxford University, suggesting that 35% of jobs were at risk over the next 20 years.

Former McDonald's chief executive Ed Rensi recently told the US's Fox Business programme a minimum-wage increase to \$15 an hour would make companies consider robot workers.

"It's cheaper to buy a \$35,000 robotic arm than it is to hire an employee who is inefficient, making \$15 an hour bagging French fries," he said.

IV

ILO DECLARATION ON

SOCIAL JUSTICE FOR A FAIR GLOBALIZATION

The International Labour Conference, meeting in Geneva on the occasion of its Ninety-seventh Session, Considering that the present context of globalization, characterized by the diffusion of new technologies, the flow of ideas, the exchange of goods and services, the increase in capital and financial flows, the internationalization of business and business processes and dialogue as well as the movement of persons, especially working women and men, is reshaping the world of work in profound ways:

- on the one hand, the process of economic cooperation and integration has helped a number of countries to benefit from high rates of economic growth and employment creation, to absorb many of the rural poor into the modern urban economy, to advance their developmental goals, and to foster innovation in product development and the circulation of ideas;
- on the other hand, global economic integration has caused many countries and sectors to face major challenges of income inequality, continuing high levels of unemployment and poverty, vulnerability of economies to external shocks, and the growth of both unprotected work and the informal economy, which impact on the employment relationship and the protections it can offer;

Therefore adopts this tenth day of June of the year two thousand and eight the present

Declaration

I. Scope and principles

The Conference recognizes and declares that:

A. In the context of accelerating change, the commitments and efforts of Members and the Organization to implement the ILO's constitutional mandate, including through international labour standards, and to place full and productive employment and decent work at the centre of economic and social policies, should be based on the four equally important strategic objectives of the ILO, through which the Decent Work Agenda is expressed and which can be summarized as follows:

(i) promoting employment by creating a sustainable institutional and economic environment in which:

- individuals can develop and update the necessary capacities and skills they need to enable them to be productively occupied for their personal fulfilment and the common well-being;
- all enterprises, public or private, are sustainable to enable growth and the generation of greater employment and income opportunities and prospects for all; and
- societies can achieve their goals of economic development, good living standards and social progress;

(ii) developing and enhancing measures of social protection – social security and labour protection – which are sustainable and adapted to national circumstances, including:

- the extension of social security to all, including measures to provide basic income to all in need of such protection, and adapting its scope and coverage to meet the new needs and uncertainties generated by the rapidity of technological, societal, demographic and economic changes;

- healthy and safe working conditions; and
 - policies in regard to wages and earnings, hours and other conditions of work, designed to ensure a just share of the fruits of progress to all and a minimum living wage to all employed and in need of such protection;
- [...]

(Organização Internacional do Trabalho, *Declaração sobre a Justiça Social por uma Globalização Justa*, Genebra, 2008, disponível em http://www.ilo.org/wcmsp5/groups/public/-dgreports/-cabinet/documents/genericdocument/wcms_371208.pdf)

V

O direito nunca pode ultrapassar a forma econômica e o desenvolvimento cultural, por ela condicionado, da sociedade.

Numa fase superior da sociedade comunista, quando tiver sido eliminada a subordinação escravizadora dos indivíduos à divisão do trabalho e, com ela, a oposição entre trabalho intelectual e manual; quando o trabalho tiver deixado de ser mero meio de vida e tiver se tornado a primeira necessidade vital; quando, juntamente com o desenvolvimento multifacetado dos indivíduos, suas forças produtivas também tiverem crescido e todas as fontes da riqueza coletiva jorrarem em abundância, apenas então o estreito horizonte jurídico burguês poderá ser plenamente superado e a sociedade poderá escrever em sua bandeira: “De cada um segundo suas capacidades, a cada um segundo suas necessidades!”

Karl Marx, *Crítica do Programa de Gotha*, São Paulo, Boitempo, 2012 [1875], p. 31-32.