

# VESTIBULAR FGV

2016 - 1º semestre

**Graduação em Direito**

**01/11/2015**

Redação, Língua Portuguesa e Inglês



 **FGV DIREITO SP**

# Leia com atenção:

## Informações Gerais

- Este caderno contém as seguintes provas: Redação, Língua Portuguesa e Inglês.
- Você terá 4 horas para realizar as três provas.
- A Folha de Rascunho da prova de Redação, embora não seja considerada para a correção, deverá ser devolvida juntamente com a Folha de Resposta definitiva.
- Adverte-se que o candidato que se recusar a entregar as Folhas de Respostas, dentro do período estabelecido para a realização das provas, terá automaticamente a prova anulada.
- O candidato só poderá deixar definitivamente o local das provas a partir de 1 hora e meia após seu início.

### Instruções para as provas:

- Para a **prova de Redação**: a Redação deverá ter, no **mínimo, 30** e, no **máximo, 40 linhas**. Textos fora desses limites não serão corrigidos, recebendo, portanto, nota zero.
- Estará automaticamente eliminado do processo seletivo o candidato que obtiver **nota bruta inferior a 3,0** nas provas de **Redação, Língua Portuguesa e Inglês**.

Prova	Questões/Pontos	Subitens/Pontos
Redação	10 pontos	<b>adequação ao tema e à estrutura</b> – 4 pontos
		<b>articulação e argumentação</b> – 3 pontos
		<b>domínio da norma culta</b> – 3 pontos
Língua Portuguesa	1 – 2 pontos	<b>A e B</b> – 1 ponto cada
	2 – 2 pontos	<b>A e B</b> – 1 ponto cada
	3 – 2 pontos	<b>A e B</b> – 1 ponto cada
	4 – 2 pontos	<b>A e B</b> – 1 ponto cada
	5 – 2 pontos	<b>A e B</b> – 1 ponto cada
Inglês	1 – 3 pontos	Não há subitens
	2 – 3 pontos	Não há subitens
	3 – 4 pontos	Não há subitens



Observe o conhecido anúncio de uma rede mundial de lanchonetes. Sua função principal, evidentemente, é a de fazer propaganda do anunciante. Mas, ao fazê-lo, o anúncio veicula também uma determinada maneira de ver o mundo e um conjunto de valores a ela associados.

Redija uma dissertação em prosa, na qual você discuta a visão de mundo e os valores implicitamente transmitidos pelo anúncio, argumentando de modo a deixar claro seu ponto de vista sobre o assunto.

**Atenção:** Não deixe de ler as instruções para a prova de Redação, na capa do Caderno de Respostas.

**Questão 1**

Examine a seguinte mensagem publicitária de uma empresa do ramo de construção civil:



Valor Setorial, junho de 2015.

- A** Tanto a frase quanto a imagem que compõem essa propaganda estão divididas, visualmente, em duas partes. Explique resumidamente a relação de sentido que existe entre imagem e frase, em cada uma das duas partes.
- B** Identifique algum recurso expressivo, sintático ou semântico, presente na frase do anúncio.

**Texto para as questões 2 e 3**

*As ideias de especialização e progresso, inseparáveis da ciência, são inválidas para as letras e as artes, o que não quer dizer, evidentemente, que a literatura, a pintura e a música não mudem nem evoluam. Mas, diferentemente do que se diz sobre a química e a alquimia, nelas não se pode dizer que aquela abole e supera esta. A obra literária e artística que atinge certo grau de excelência não morre com o passar do tempo: continua vivendo e enriquecendo as novas gerações e evoluindo com estas. Por isso, as letras e as artes constituíram até agora o denominador comum da cultura, o espaço no qual era possível a comunicação entre seres humanos, apesar das diferenças de línguas, tradições, crenças e épocas, pois quem hoje se emociona com Shakespeare, ri com Molière e se deslumbra com Rembrandt e Mozart está dialogando com quem no passado os leu, ouviu e admirou.*

*Esse espaço comum, que nunca se especializou, que sempre esteve ao alcance de todos, passou por períodos de extrema complexidade, abstração e hermetismo, o que restringia a compreensão de certas obras a uma elite. Mas essas obras experimentais ou de vanguarda, se de fato expressassem zonas inéditas da realidade humana e criassem formas de beleza duradoura, sempre acabavam por educar leitores, espectadores e ouvintes, integrando-se desse modo no patrimônio comum.*

*A cultura pode e deve ser, também, experimentação, é claro, desde que as novas técnicas e formas introduzidas pela obra ampliem o horizonte da experiência da vida, revelando seus segredos mais ocultos ou expondo-nos a valores estéticos inéditos que revolucionem nossa sensibilidade e nos deem uma visão mais sutil e nova desse abismo sem fundo que é a condição humana. A cultura pode ser experimentação e reflexão, pensamento e sonho, paixão e poesia e uma revisão crítica constante e profunda de todas as certezas, convicções, teorias e crenças. Mas não pode afastar-se da vida real, da vida verdadeira, da vida vivida, que nunca é a dos lugares-comuns, do artifício, do sofisma e da brincadeira, sem risco de se desintegrar. Posso parecer pessimista, mas minha impressão é que, com uma irresponsabilidade tão grande como nossa irremediável vocação para a brincadeira e a diversão, fizemos da cultura um daqueles castelos de areia, vistosos mas frágeis, que se desmancham com a primeira ventania.*

Mario V. Llosa, **A civilização do espetáculo: uma radiografia do nosso tempo e da nossa cultura**. Rio de Janeiro: Objetiva, 2013.

**Questão 2**

Com base nos conceitos de “especialização” e “progresso”, o autor distingue arte de ciência. Explique sucintamente o que ele entende por

- A “especialização”;
- B “progresso”.

**Questão 3**

Responda ao que se pede.

- A Identifique o referente de cada um dos seguintes pronomes usados no 1º. parágrafo: “nelas”, “aquela”, “esta”.
- B Segundo as gramáticas tradicionais, por não ser um verbo de conjugação completa, “abolir” é considerado defectivo. Por isso não se recomenda o uso da forma “abole” (1º. parágrafo). Em vista disso, reescreva o trecho “aquela abole e supera esta”, substituindo os dois verbos por sinônimos adequados ao contexto.

**Texto para as questões 4 e 5****Último trem da Cantareira****Estrada de ferro que ligava o centro da cidade à zona norte foi desativada em 1964**

O saudoso “trenzinho da Cantareira”, como era carinhosamente chamado pelos paulistanos, fez sua última viagem há 50 anos, conforme noticiou, na época, o jornal **O Estado**.

**Cantareira já não tem trem**

O último trem da Cantareira saiu ontem à noite da Estação do Areal, em consequência da extinção do ramal por ato do governador do Estado. A supressão da linha foi determinada pelas obras de construção da ponte “Cruzeiro do Sul” – sobre o rio Tietê, e pela situação deficitária da Estrada. Depois da retirada dos trilhos, o leito do ramal deverá ser pavimentado e transformado em avenida.

**O Estado de S. Paulo**, 11/11/1964.

Eternizada pelo samba *Trem das Onze*, de Adoniran Barbosa (embora não havia trem nesse horário), a estrada de ferro conhecida como Tramway foi inaugurada em 1893 com a presença de autoridades e convidados ilustres.

**O Estado de S. Paulo**, 14/07/2014. Adaptado.

**Questão 4**

No texto de 1964, ocorre um trocadilho e, no de 2014, um erro gramatical.

- A Reescreva a frase que contém o trocadilho, de tal forma que ele seja eliminado, fazendo as modificações necessárias.
- B Reescreva, de forma correta, o trecho que contém o erro gramatical.

**Questão 5**

Leia o texto do samba citado na matéria jornalística e depois responda.

*Trem das onze*

*Não posso ficar nem mais um minuto com você / Sinto muito  
[amor, mas não pode ser  
Moro em Jaçanã, / Se eu perder esse trem  
Que sai agora às onze horas / Só amanhã de manhã.*

*Além disso, mulher / Tem outra coisa,  
Minha mãe não dorme / Enquanto eu não chegar,  
Sou filho único / Tenho minha casa pra olhar  
Não posso ficar.*

Além de não ter existido o referido horário, segundo informa a matéria citada, consta também que o compositor jamais teria morado no bairro mencionado na letra do samba e que, quando ele o compôs, sua mãe já era falecida.

- A Essas “inverdades” desmerecem ou diminuem o valor da canção? Justifique sua resposta.
- B Do ponto de vista da construção poética, há alguma razão especial para o autor ter optado pelo nome “Jaçanã”? Explique.

**Uber And The Gig Economy [A Economia de Bico]**

James Surowiecki

- 1 *If someone uses Uber to get to the airport, is the driver an Uber employee, or an independent contractor<sup>1</sup> using Uber to find customers? For companies in the so-called sharing economy, there may be no more important question. A couple of weeks ago, a California labor commissioner gave her answer: she ruled that an Uber driver who had filed a claim against the company was, in fact, an employee. The ruling applied only to that particular worker and the only result was the reimbursement of the plaintiff's<sup>2</sup> car expenses. But, if other regulators and courts were to follow that decision, it isn't just the future of Uber that would be transformed. The U.S. job market would be, too.*
- 2 *We hear a lot these days about the gig economy, but the issue of whether a worker is an employee or an independent contractor has been the subject of intense legal battles for decades. The distinction can be surprisingly hard to make. The I.R.S.<sup>3</sup> has a list of twenty factors that it takes into account, but other federal agencies have different criteria, as do most states. The fundamental issue is usually whether an employer has "control" over the work being done, but defining control isn't always easy.*
- 3 *In the past century, laws designed to protect workers have proliferated, and the social safety net has expanded significantly, in ways that give employees benefits and security not available to independent contractors. Hiring employees costs businesses more than hiring independent contractors—estimates suggest that it can be twenty to thirty per cent more expensive. So companies have become remarkably inventive at finding ways to call workers contractors. A 2005 Cornell study found that roughly ten per cent of workers in New York State were miscategorized. Certain industries—trucking, construction, housekeeping—are notorious for doing this, but it happens everywhere. In the late nineties, Microsoft lost a major lawsuit because it had labelled some of its engineers contractors and denied them stock options and other benefits, even though they did essentially the same work as regular employees. More recently, FedEx settled a series of class-action suits<sup>4</sup> brought by drivers who claimed that they had been misclassified.*
- 4 *Uber's critics insist that it, too, is simply disguising employees as contractors. It sets the prices that its drivers can charge, monitors their performance (based on ratings from passengers), and can boot them off the service if their ratings are too low. Uber, meanwhile, claims that it's much more like eBay than like McDonald's: it's a platform connecting customers and drivers, and taking a cut (twenty per cent) of the transaction. It doesn't tell drivers when they have to drive, or where. It doesn't determine how many hours they work, or if they work at all. And its use of ratings isn't that different from what eBay does with its sellers.*
- 5 *Much worker-protection legislation takes the view that, when there's a tough decision like this, we should put workers' interests above corporate ones. But it's not clear that most of Uber's drivers would be better off if we declared them employees. The ones who treat their gig as a full-time job—driving forty hours a week or more—would probably benefit. But Uber would likely recoup its rising labor costs by taking a larger cut of fares and shrinking its workforce. Arun Sundararajan, a business-school professor at New York University and an expert on the sharing economy, told me, "It's very unlikely drivers' take-home pay would rise. There also would be fewer drivers. They would be able to drive more hours, but they'd have less flexibility in how they worked." Studies suggest that flexibility—no supervisors to answer to, working when you want rather than when the boss wants—is an important part of what attracts workers to companies like Uber.*
- 6 *The real problem here is that Uber drivers don't quite fit into either of the traditional categories. Declaring them independent contractors or employees, as a California judge commented, means forcing a square peg into one of two round holes<sup>5</sup>. We'd do better to create a third legal category of workers, who would be subject to certain regulations, and whose employers would be responsible for some costs (like, say, reimbursement of expenses and workers' compensation<sup>6</sup>) but not others (like Social Security and Medicare taxes). Other countries, including Germany, Canada, and France, have rewritten their laws to expand the number of worker categories. There's no reason we can't do the same, and give gig-economy workers a better balance of flexibility and security.*

Adapted from *The New Yorker*, July 6, 2015.

Glossário:

<sup>1</sup> independent contractor: autônomo.

<sup>2</sup> plaintiff: queixoso, querelante, reclamante.

<sup>3</sup> I.R.S.: Receita Federal dos Estados Unidos.

<sup>4</sup> class-action suit: ação coletiva.

<sup>5</sup> to force a square peg into a round hole: insistir em conjugar duas coisas incompatíveis.

<sup>6</sup> workers' compensation: indenização.

## Introduction

This passage, adapted from an article in *The New Yorker*, focuses on the situation of workers in the gig economy [*a economia de bico*], an increasingly worldwide phenomenon that, in the United States, is pressuring some traditional aspects of labor relations. In examining this subject, the author discusses an important court case, presents information from lawsuits and research, and indicates some possible solutions to problems inherent to this new kind of economy. Read the text and answer the questions below. You are advised to read the questions carefully and give answers that are of direct relevance. Remember: Your answer to Question 1 must be written in Portuguese, but your answers to Questions 2 and 3 must be written in English. With these last two questions, you may use American English or British English, but you must be consistent throughout.

### Question 1 (to be answered in Portuguese)

(This question tests your understanding of the text, as well as your ability to identify and paraphrase the relevant pieces of information. You should write approximately 120 words.)

The article begins by asking a question about the nature of a driver's relationship with Uber, the revolutionary car-service company. In your own words, what is that question and how did a California labor commissioner answer it? Going further, why is it so important to decide whether or not any worker in the gig economy is either an employee or an independent contractor? What reasons does the article give for putting Uber drivers into one or the other of those categories, and what might the consequences be if Uber drivers are in the end designated as employees? Finally, what does the author consider the "real problem" and how does he suggest that it be solved?

### Question 2 (to be answered in English)

(This question tests your ability to express yourself in a manner that is clear, precise, and relevant. You should write approximately 120 words.)

In 1811-12, a group of workers destroyed newly introduced textile machinery in Nottingham, Yorkshire, and Lancashire, England. Their fear was that the output of the equipment was so much faster than the output of a hand-loom [*tear manual*] operator that many jobs would be lost. Known as "Luddites," after their leader, Ned Ludd, the movement ended with a mass trial in York in 1813, when many were hanged or shipped to the Australian penal colony. The term has since been used to describe any resistance to technological innovation. (Adapted from the *Chambers Dictionary of World History*)

For Brazilians the above story may have a certain resonance: This year, in many Brazilian cities, irate taxi drivers have protested against Uber, claiming, essentially, that because they must pay a number of taxes and fees that Uber can avoid, the car-service app is an unfair competitor threatening their livelihood. Many taxi drivers have demanded that Uber be forbidden to operate, and, in certain isolated cases, some allegedly have intimidated and even assaulted Uber drivers.

In your opinion, are the taxi drivers right or wrong? Do they have a legitimate grievance against Uber, that is, do Uber drivers enjoy all of the advantages and taxi drivers none? How should government and the law involve themselves in this dispute? For example, if Uber had the potential to create more jobs than the taxi industry currently provides, would that justify letting the taxi-driving profession disappear? What would you propose to resolve the taxi driver-Uber driver conflict?

In answering, you may take into account legal, ethical, and practical considerations, but please try to be as objective as possible.

**Question 3 (to be answered in English)**

(This question tests your ability to construct a balanced, considered, and fluent argument in the form of a short composition. The quotations below underscore two aspects of the gig-economy issue. Read the quotations and answer the question. You should write approximately 120 words.)

At the end of his *New Yorker* article, author James Surowiecki criticizes the “outdated nature” of the U.S. social safety net, which he writes is “still dependent on the idea of the full-time employee, who gets health care, a pension, unemployment insurance, and so on from one company. That worked fine in a world of stable employment, but lots of Americans no longer live in that world and plenty more will be joining them. And, as Sundararajan says, ‘It makes no sense to have a well-developed safety net for one category of employment and virtually none for other kinds of productive work.’” Surowiecki affirms that national health care, which the U.S. now has, along with the implementation of some kind of national worker-benefit program, would be a step in the right direction. He ends his article by declaring, “Work is changing. The protection we offer workers should change as well.”

After reading James Surowiecki, you may note that in Brazil most opinions about Uber have focused not on that company’s relationship with its drivers, but on whether or not Uber even has a right to exist. In a July 14, 2015 article (“Uber and the Regulation of Labor”) in the *Estado de S. Paulo* newspaper, the renowned professor and public administrator José Pastore counterbalances the taxi drivers’ argument that Uber should be banned.

“The reaction of the taxi drivers mirrors the vision of those who feel they have the right to defend market reserves, as if transporting a person required some qualification besides what is guaranteed in the official driver’s license....

“It is proven that technologies advance more quickly than labor laws and that nothing will stop the coming changes, especially those that facilitate the lives of workers and consumers.

“The revolution is under way. It is imperative to adjust the laws to the new reality and not block technologies in order to defend market reserves. The only regulated professions should be those that demand very specific training, such as, for example, lawyer, airline pilot, engineer, doctor, etc....

“We cannot eternally sacrifice consumers to the exclusive interests of taxi drivers. Companies like Uber are going to be more prevalent. That’s why we must find the middle ground, including in the tax area, since there should be no unfair competition between Uber drivers, who pay no taxes, and taxi drivers, who do. That is a challenge for legislators. With that issue resolved, Uber and taxi drivers will compete on the playing field of price and quality, with the consumer free to choose as he pleases.”

In your opinion, how would the ideas of James Surowiecki and José Pastore affect, either positively or negatively, Brazil’s progress and prosperity? In other words, what might be the advantages or disadvantages of creating a third labor category for workers in the country’s growing gig economy? Moreover, should the government protect the interests of consumers or of a class of workers, that is, should consumer-oriented technological advances be welcomed even if they could create problems for the members of a specific group? Where do you place yourself with respect to these issues?

Once again, in answering, you may take into account legal, ethical, and practical considerations, but please strive to be as clear-sighted and logical as possible, supporting your point of view with specific arguments and examples.