

PROVA DE PROFICIÊNCIA EM INGLÊS PARA MESTRADO EM DIREITO

Prezada candidata, prezado candidato:

Este exame é composto por 3 textos em inglês e 3 questões para cada texto.

O primeiro texto é OBRIGATÓRIO.

O segundo e o terceiro texto são opcionais. ESCOLHA O TEXTO 2 OU 3 e responda todas as perguntas do texto escolhido.

Leia os textos com atenção e, com base no que consta no texto, responda em português às questões apresentadas em seguida.

É permitida a consulta a dicionários impressos. É vedada a utilização durante o exame de quaisquer meios eletrônicos de tradução automática.

TEXTO 1 (obrigatório)

Although U.S. court documents are publicly available online, they sit behind expensive paywalls inside a difficult-to-navigate database.

A Northwestern University-led team says these barriers prevent the transparency needed to establish a fair and equal justice system. Making all court records open and available will allow researchers to systematically study and evaluate the U.S. justice system, yielding information with potential to direct policy. "In principle, litigation is supposed to be open to the public," said Northwestern data scientist Luís A. Nunes Amaral. "In reality, the lack of access to court records seemingly undercuts any claim that the courts are truly 'open.'"

Northwestern artificial intelligence (A.I) researcher Kristian Hammond and the C3 Lab are developing an A.I. platform that provides users with access to the information and insights hidden inside federal court records, regardless of their data and analytic skills.

"The problem with court data is the same problem with a lot of datasets," Hammond said. "The data cost money, and the technical skills to use them cost money. That means very few people have access -- not just to the data -- but the information that we all need that's hidden inside of it."

With this tool, the researchers can link courtroom data to other public data to explore questions such as: How do different judges affect the outcomes of similar cases? Does it make a difference to be defended by a big law firm compared to a smaller one? And how many cases settle? "We really can ask the broadest questions," Amaral said. "The ultimate goal is to ask if the court system is acting fairly."

To help quantify and evaluate citizens' access to justice, the researchers examined judicial waiver decisions. Anyone who files a lawsuit in a federal court must pay a \$400 filing fee, which is unaffordable for many Americans. To waive these fees, litigants can file an application. Because there is no uniform standard to reviewing these requests, the Northwestern team found judges' decisions varied widely. In one federal district alone, judges approved waivers anywhere from less than 20% to more than 80% of the time. "If all judges reviewed fee waiver applications under the same standard, then grant rates should not systematically differ within districts," the authors wrote. "We find, however, that they do."

So, the researchers are developing SCALES-OKN (Systematic Content Analysis of Litigation Events Open Knowledge Network), an A.I.-powered platform that makes the federal courtroom data and insights available to the public. The team believes the tool

has potential to transform the ways academics, scientists and researchers approach legal study, as well as how journalists cover the justice system.

"Our ability to understand and improve the law -- everything from employment discrimination to intellectual property to securities regulation -- depends critically on our ability to access legal data," said Sanga, an associate professor at Northwestern Law. "By opening up court records, SCALES will finally enable researchers to systematically examine the court system and the practice of law. Social scientists will use this resource in much the same way that they use the U.S. Census. It will provide both a detailed and big picture view of the process by which litigants navigate the justice system, as well as the process by which judges administer justice."

"SCALES will transform the way journalists are able to cover the American justice system," said Mersey, associate dean of research at Medill. "The interface will allow reporters, both with and without data analytics skills, to quickly and easily access judicial information and court records to cover uses of social justice, equity and due process. At a time when media organizations have trimmed newsroom staffs and decreased the amount of money that can be spent gathering information, SCALES will prove to be a powerful partner in ensuring the justice systems operates in an open and accessible way."

Story Source:

<https://www.sciencedaily.com/releases/2020/07/200709141614.htm>

Materials provided by **Northwestern University**. Original written by Amanda Morris. *Note: Content may be edited for style and length.*

Questão 1 (1,5 pontos)

O que é a plataforma “ SCALES-OKN” e qual é o seu principal objetivo?

SCALES-OKN é uma ferramenta de inteligência artificial desenvolvida por pesquisadores para tornar dados escondidos em registros de cortes federais disponíveis ao público em geral, independentemente das habilidades com dados e análises do usuário.

Questão 2 (1,5 pontos)

Os desenvolvedores buscam responder algumas questões através do uso desta plataforma? Quais são as 4 perguntas citadas no texto?

1. Como diferentes juízes afetam resultados de casos similares?;
2. Faz diferença ser defendido por um grande escritório de advocacia, se compararmos a um escritório pequeno?;
3. E quantos casos são resolvidos?;
4. O último objetivo é questionar se o sistema de Justiça está atuando de forma justa.

Questão 3 (3 pontos)

De acordo com o texto, como o “SCALES-OKN” pode transformar a forma com que cientistas, pesquisadores e jornalistas abordam assuntos relacionados ao direito?

Pesquisadores poderão examinar sistematicamente o sistema das cortes de justiça e da prática do direito.

Cientistas sociais usarão as informações coletadas pelo SCALES-OKN da mesma forma como são usadas as informações coletadas pelo censo dos Estados Unidos. Isso possibilitará obter uma visão ampla, mas também detalhada, da forma como litigantes atuam no Poder Judiciário, bem como revelar a forma como juízes administram a Justiça.

O SCALES transformará a maneira como os jornalistas cobrem o sistema de justiça americano. A interface permitirá que repórteres, com ou sem habilidades de análise de dados, acessem de forma rápida e fácil informações judiciais e registros da corte para cobrir casos de justiça social, equidade e devido processo legal.

TEXTOS OPCIONAIS – (escolha entre o texto 2 ou 3)

TEXTO 2

Where do laws come from? Crediting judges and legal scholars or popular intuition?

A research co-authored by a University of Central Florida researcher offers evidence that criminal laws come from an intuitive and shared, universal sense of justice that humans possess. "We sometimes think of the law as this completely rational enterprise that is the result of wise experts sitting around a table and working from logical principles," says Carlton Patrick, an assistant professor in the University of Central Florida's Department of Legal Studies and study co-author. "And instead, what this study suggests is that these intuitions that people tend to share about justice may be the things that are becoming institutionalized."

Patrick and Daniel Sznycer, an assistant professor of psychology at the University of Montreal and the study's lead author, made the finding by comparing modern and ancient people's sense of whether a punishment fits a crime. **While previous studies have examined people's intuitions about justice, this is the first one that compared them across thousands of years.**

Using participants from the United States and India, the researchers had people rate offenses from one of three legal codes: The Laws of Eshnunna, Sumerian laws from nearly 3,800 years ago; the Tang Code, Chinese laws from nearly 1,400 years ago; and the Criminal Code of Pennsylvania, which reflects modern U.S. laws. The participants were shown crimes that ranged from ancient offenses, such as not keeping an ox in check, to modern ones, such as assault. But they were not told of the punishments that the law established for each offense. Then, some participants were asked to determine

the appropriate fines for each offense, while others were asked to determine prison sentences.

The researchers found that the more seriously modern people judged a crime to be, the higher the actual legal punishment for the crime. This was despite participants living in different countries and legal codes that were separated by thousands of years. "The match between participants' intuitions and ancient laws was notable," Sznycer says.

"Criminal laws, like the writing that supports those laws, are cultural inventions: present in some societies, absent in others," he says. "However, this new research adds empirical weight to the possibility that the capacity to make laws - the brain mechanisms that appraise offenses and generate justice intuitions - are universal, and a part of human nature."

Patrick says the study is an important step in helping to demystify the origin of laws. "I think what this study does is lead us into the black box a little bit," he says. "It removes one layer of the shroud of mystery that surrounds the lawmaking process, and it also gets us closer to understanding why we sometimes feel that something's wrong, even when we can't explain why."

Story Source:

<https://www.sciencedaily.com/releases/2020/02/200224111334.htm>

Materials provided by **University of Central Florida**. Original written by Robert H Wells. *Note: Content may be edited for style and length.*

Questão 1 (1 ponto)

What was the purpose of the research? What was the difference from other previous studies?

O objetivo do estudo foi verificar a origem das leis criminais, de forma a verificar se são criadas por estudiosos do Direito ou por intuição popular. Estudos anteriores examinaram a intuição da população sobre Justiça, porém, este foi o primeiro que fez uma comparação através de milhares de anos, utilizando e comparando códigos legais diferentes.

Questão 2 (1 ponto)

How was the research performed?

Usando participantes dos Estados Unidos e Índia, os pesquisadores pediram para que pessoas classificassem ofensas existentes em um de três códigos legais: Leis de Eshunna, leis sumérias de aproximadamente 3.800 anos atrás; o Código Tang, leis chinesas de aproximadamente 1.400 anos atrás; e o Código Criminal da Pensilvânia, que reflete as leis modernas dos EUA. Aos participantes eram mostrados crimes que variavam desde ofensas antigas a modernas. Mas a eles não eram ditas as punições que

a lei estabelecia para cada ofensa. Então, alguns participantes eram questionados a determinar multas apropriadas para cada ofensa, enquanto outros eram questionados a determinar condenações prisionais.

Questão 3 (2 pontos)

What were the results of the study?

Os pesquisadores descobriram que quanto mais seriamente as pessoas modernas julgam um crime, maior é a punição legal real para o crime. Isso ocorreu apesar dos participantes morarem em diferentes países e com códigos legais separados por milhares de anos. "A correspondência entre as intuições dos participantes e as leis antigas foi notável", O pesquisador afirma que "As leis criminais, assim como os escritos que as apoiam, são invenções culturais: presentes em algumas sociedades, ausentes em outras", porém esta nova pesquisa acrescenta peso empírico à possibilidade de que a capacidade de fazer leis - os mecanismos cerebrais que avaliam as ofensas e geram intuições de justiça - seja universal e faça parte da natureza humana".

TEXTO 3

Virtual courtrooms and the role of non-verbal communication in the outcome of lawsuits

Since the beginning of the health crisis, courts have been making a technological shift. The number of virtual trials and proceedings filed online have increased. Although their use appears legitimate during the pandemic, video communications applications such as Skype or Zoom are hindering the role of the non-verbal communication in courtrooms. The issue may seem simple and innocuous, but in reality, it is not.

The outcome of lawsuits is not only determined by laws and precedents. The appearance of witnesses and the way they behave can play a determining role. Gestures, looks, facial expressions and postures allow witnesses to communicate emotions and intentions, judges to foster empathy and trust, and lawyers to better understand the actions and words of witnesses and adapt accordingly.

The non-verbal aspect of trials is not limited to faces and bodies. The characteristics of the environment in which they take place — the courthouse and the courtroom — contribute to the image of justice. The location where witnesses are questioned and where participants are seated influences how trials are conducted. For example, judges are seated higher than others in the courtroom, which can affect the authority given to them by litigants.

Several jurisdictions have announced that virtual courtrooms will remain open after the end of the health crisis. For some, their primary benefit would be to promote access to justice. However, as courtrooms move online, the dynamics of their interactions will need to shift drastically. Specially because virtual trials reduce non-verbal information and hence limit the ability of witnesses to be understood, to feel understood and to understand others adequately. For example, the conduct of a cross-examination depends on the lawyers' ability to understand the actions and words of witnesses. Virtual courtrooms restrict non-verbal behaviour to a face on a screen, and it can have far-reaching consequences.

These include dehumanizing victims and defendants, an effect already documented among immigrants heard via videoconferencing. Virtual trials can also amplify the negative effects of facial stereotypes, which can distort the assessment of evidence and the outcome of trials.

In view of this, before virtual courtrooms become permanent or laws are changed, the role of non-verbal communication in courtrooms should be fully appreciated. In order to maximize the advantages and minimize the disadvantages of the shift to online justice, dialogue between the legal community and researchers working in disciplines like psychology, communication and criminology, is fundamental.

Story Source:

<https://theconversation.com/guilty-or-innocent-in-virtual-courtrooms-the-absence-of-non-verbal-cues-may-threaten-justice-145371>

Questão 1 (1 ponto)

According to the text, what is the issue with virtual courtrooms?

Embora seu uso pareça legítimo, os aplicativos de comunicação de vídeo, como Skype ou Zoom, podem estar atrapalhando o papel da comunicação não verbal em tribunais. A questão pode parecer simples e inócua, mas na realidade não é.

Questão 2 (2 pontos)

The text cites several nonverbal aspects present in a trial. What are they and how can they influence the results of a trial?

Aspectos não verbais:

A aparência das testemunhas e a forma como se comportam

Gestos, olhares, expressões faciais e posturas

As características do ambiente

O local onde as testemunhas são interrogadas e onde os participantes estão sentados

Permitem que:

que as testemunhas comuniquem emoções e intenções,

possibilita que os juízes estimulem a empatia e a confiança e que os advogados compreendam melhor as ações e palavras das testemunhas e se adaptem de acordo.

influencia a forma como os julgamentos são conduzidos.

Questão 3 (1 ponto)

According to the article, how do virtual courtrooms dehumanize victims and defendants? Cite one example.

Os tribunais virtuais restringem o comportamento não verbal a um rosto na tela, e amplificam os efeitos negativos dos estereótipos faciais. Isso pode distorcer a avaliação das evidências e o resultado de julgamentos.

O autor cita o caso de imigrantes ouvidos através de vídeo conferencia como exemplo.

	Peso da questão	Pontuação da prova
Texto 1		
Questão 1	1,5	
Questão 2	1,5	
Questão 3	3	
Texto 2		
Questão 1	1	
Questão 2	1	
Questão 3	2	
Texto 3		
Questão 1	1	
Questão 2	2	
Questão 3	1	
Total		