

Epistemic Disagreement and 'Elu We'Elu

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Abstract: A lively exchange in recent epistemology considers the problem of epistemic disagreement between peers: disagreement between those who share evidence and have equal cognitive abilities. Two main views have emerged about how to proceed in such circumstances: be steadfast in maintaining one's own view or conciliate, and suspend or reduce one's confidence in one's belief. Talmudic debates do seem to promote steadfastness, as the disputants are not called on to conciliate purely because they confront a disagreeing peer. But why? Third party judgments are even more problematic, for what epistemic warrant is there for choosing between a disagreement of superiors? A common explanation for Talmudic steadfastness is the notion 'elu w'elu divrey 'Elohim *kayim* – both sides of Talmudic (or, more generally, *halakhic*) disputes have 'heavenly' legitimacy. But a closer look at this oft-quoted dictum and its various interpretations does not, in fact, reveal such support for steadfastness. Other explanations for Talmudic steadfastness are, therefore, required.

Keywords: disagreement, epistemic warrant, 'elu w'elu, Talmudic dispute, Talmudic dissent.

1. Introduction

You look out the window and announce that it's raining. I look out and say with equal assurance that it isn't. I know you have excellent vision, I'm sure you haven't been drinking, and I have no reason to think you would declare it to be raining if you didn't think it was. You, in turn, have every reason to believe that I, too, meet the usual criteria for holding to my belief: adequate perceptual ability, lack of bias, sobriety, rationality, seriousness etc. That is to say, in this instance, we are epistemic peers. Should I therefore reconsider and substantially reduce my confidence in my belief – as should you?

In recent years, epistemologists have engaged in a robust discussion on how we ought to proceed in instances of peer disagreement: *S* has rationally and critically considered the evidence and concludes that *P* but now confronts an epistemic peer *R* whose opinion *S* values in matters concerning *P*, but who, having reviewed the same evidence *S* relied on, concludes that $\sim P$. Various responses have been forwarded on how to proceed in these cases.

The broad division in this literature is between advocates of so-called conciliatory views (sometimes called conformist views) and those who favor so-called steadfast views. According to conciliationists, when faced with a peer disagreement one should reduce one's confidence in one's own belief or abandon it altogether; according to steadfasters, one is epistemically warranted in maintaining confidence in one's own view.

Does the treatment of Talmudic arguments support the conciliationist or steadfast position? It does seem, at first glance, that the Talmudic attitude toward peer disagreement favors the latter view. Although the opposing rabbis are accorded parity of intellectual ability and are recognized as supporting their respective viewpoints on relevantly equivalent sources and argumentation, neither disputant is urged to relinquish or minimize his own opinion. To be sure, adversaries are generally expected to not implement their judgments in deference, say, to an opposing majority rule, or, in one instance, in deference to a heavenly judgment. But the reason to yield is the non-epistemic requirements of the *halakhic* process, and not because the rejected view is deemed epistemically unwarranted.

This assumption concerning Talmudic disputes needs, of course, to be examined more precisely. Why shouldn't the reality of a disagreeing peer not reduce one's confidence in one's own view in Talmudic disputes as it might elsewhere? Why is not judicial compromise, when possible, the preferred solution in the usual cases of Talmudic peer disagreement? Moreover, how can a third party choose between a dispute between two peers, especially when the disputants are the epistemic superiors of the third party, as is commonplace in *Talmud* arguments? One might suppose that these epistemic concerns are largely inapplicable here as these disagreements are primarily, though certainly not exclusively, directed to issues of law and its practice, to the determination of *quaestio juris* (legal truth) and not *quaestio facti* (factual truth). But one needs to show why, if such is the case, the appeal to conciliation is not operative in this legal domain as well.

The Talmudic decree '*elu we'elu divrey 'Elohim kayim hen*, 'these and these are the words of the living God,' is regularly appealed to as providing the underlying support for preserving the equal epistemic status of Talmudic disputants. But, as we shall see, the principle does not provide this presumed support for steadfastness and our question about the lack of conciliation remains.

In addressing these issues, I first will highlight some key arguments for and against the conciliatory view and then note how these arguments do or don't apply to Talmudic disagreements. This, in turn, directs us to a closer look at the principle of '*elu we'elu* and why, contrary to a prevalent presumption, the notion does not justify the steadfast viewpoint. Finally, I will note some particular difficulties with epistemically inferior third party judgments of peer disagreements.

2. Conciliation or Steadfastness?

Peer disagreements occur when two persons who disagree with one another also recognize that they are equally qualified to have an opinion on the matter in question. In these circumstances, peers cannot appeal to their differences about the particular issue as favoring their own respective views without begging the question about whose evidence or reasoning is the better, since both their evidence and reasoning is under reciprocal investigation. This principle of independence stipulates that in evaluating a disagreeing subject's epistemic credentials, one may use only *dispute-independent* reasons [1]. What is sought is an explanation for the disagreement that is independent of a first-person perspective, an explanation that is determinative from a third-person perspective. Inasmuch as no such first-person

privilege manifests here, some form of skepticism is warranted. So according to proponents of the Equal Weight View, compromise is mandated.¹ Others, especially those favoring a uniqueness thesis such that there is a uniquely warranted rational belief given the body of evidence, conclude that when confronted by peer disagreement one must relinquish one's belief entirely. Whether we ought to compromise or suspend judgment entirely, all conciliationists agree that peer disagreement necessitates a substantial revision of belief.

Steadfasters, on the other hand, argue that we are warranted in relying on our own conclusions in cases of peer disagreement. Although it might seem *prima facie* reasonable to reduce one's credence in these situations – after all, why should you presume your belief is better than your peer's? – steadfasters have defended maintaining one's prior belief on a number of grounds. Some contend that conciliation fosters intolerable epistemic weakness. The Equal Weight View is 'objectionably self-abasing' and 'servile,' exhibiting 'spinelessness' and 'lack of self-trust' [2]. Conciliatory views have also been criticized as leading to skepticism and 'it would be bad to have to suspend judgment on just about any controversial question' [11]. Steadfasters also sometimes deny that peer disagreement is actually genuine or frequent. Perhaps one might be willing to grant an Equal Weight View in minor, narrowly constrained cases, such as when two peers disagree over what is an 18% tip for a lunch bill but, they contend, most of our controversial differences are embedded in a cluster of larger issues, often with regard to values about which we don't really judge our opponents to be our peers. Still other steadfasters submit that conciliatory views are self-refuting. Since epistemologists are in deep disagreement about whether to support conciliation or steadfastness, conciliationists should rescind their advocacy of their position or, at least, be willing to compromise in the direction of steadfastness.

But perhaps the central defense of the steadfast view allows that genuine peer disagreements do obtain, but insists one is still entitled to one's own view because the first-person perspective *does* break the symmetry of peer disagreement. You can rely on your own judgment more than on your peer's because you have greater intimacy with your own evidence and reasoning. And some steadfasters acknowledge that the egoist perspective is insufficient to destroy peer symmetry, but propose a doxastic value in holding to one's own opinion that is independent of rationality... a doxastic value that tips the scale in one's own favor in cases of peer disagreement.

Defenders of conciliation have, in turn, offered rebuttals to these steadfast challenges. They reject the notion that conciliation promotes a genuinely deleterious 'spinelessness,' inasmuch as there is nothing spineless in willing to alter one's level of credence when faced with serious contrary evidence. And rather than promote skepticism, conciliationist note that their view proceeds precisely because they recognize there are genuinely knowable truths which happen to be in question in a peer disagreement. Furthermore, the self-refuting objection can be parried, they argue, by distinguishing between second-order and first-order propositions in the manner many other meta-epistemic claims avoid self-refutation such as in defenses of induction and ethical relativism, and especially recursive epistemic or semantic propositions. (The outcome of a self-referential conciliation is a particularly complicated business: If the conciliationist adopts more of the steadfast view, that directs her to be more steadfast in her original judgment... i.e. conciliation! This renders the 'self-undermining' refutation 'self-undermining' in turn.) Conciliationists, therefore, see no convincing reason why a personal perspective should trump that of an opposing peer and, they also emphasize, this symmetry is especially salient when a third party must choose between the rival peers.

As one might imagine, this debate between conciliationists and steadfasters has invited a complex literature of fine distinctions and nuanced applications.² Nonetheless, with this admittedly broad outline of the divide, we can turn for a look at how the *Talmud* seems to treat peer disagreement.

3. Talmudic Disagreements and 'elu we'elu

The *Talmud* is a repository of thousands of disputes, disagreements that often turn on the valuation of

evidence based on original interpretation versus tradition, as well as disagreements about the correct applicable tradition itself.³ Rarely, however, do we read of one Rabbi offering to relinquish or compromise his view *purely* because his rabbinic colleagues disagree with him.

This presumptive support for steadfastness does not appeal to the usual concerns with conciliation noted above. Genuine symmetry is recognized: a *Tann'a* is a qualified peer when arguing with another *Tann'a* as an '*Amor'a*' is a qualified peer when arguing with another '*Amor'a*'. Nor do we find attributions of 'spinelessness,' toward those abdicating their view. Worries that conciliation is self-refuting do not appear to be a concern either. Rather, a standard justification for steadfastness in Talmudic commentaries and in *halakhic* literature in general is the notion that when the appropriate conditions obtain, each of the disputants has the authority of divine approval: '*Elu we'elu divrey 'Elohim kayim*'. All arguments 'for the sake of heaven' are thought to attain 'divine' legitimacy and though one rival view must yield with regard to practice, generally neither side is called upon to desist from retaining its opinion. But, in fact, on closer examination, the precept of '*elu we'elu*' does not endorse such steadfastness.

The phrase '*elu we'elu divrey 'Elohim kayim hen*' actually appears only twice in the *Babylonian Talmud*, once with regard to a factual dispute and the other with regard to *halakhic* rulings.⁴ We should notice, at the outset, however, that in both instances, the phrase is employed by a third party adjudicating arguments between peers – it is God (or His representative Divine voice) that renders a judgment about a dispute between his human epistemic inferiors. As we shall see, matters are more problematic when the principle is used to decide between an argument of peers, both of whom we recognize as our epistemic superiors.

The occurrence of '*elu we'elu*' in the *Maseket Giṭṭin* (*Babylonian Talmud*, *Giṭṭin* 6b) is infrequently referred to as it concerns a disagreement about an obscure historical fact with no practical implications. Still less often noticed, rather than affirming the legitimacy of genuine disagreement, the phrase is used to deny that we are dealing with a genuine disagreement.

The immediate preceding discussion in that text concerns the establishment of authority of Rabbi Abiathar. Support for his standing derives from the following episode:

Commenting on the text, 'And his concubine played the harlot against him,' (2 *Judg.* 19:2) R. Abiathar said that the Levite found a fly with her, and R. Jonathan said that he found a hair on her. R. Abiathar soon afterwards came across Elijah and said to him: 'What is the Holy One, blessed be He, doing?' and he answered, 'He is discussing the question of the concubine in Gibe'a.' 'What does He say?' Elijah replied: '[He says], My son Abiathar says so-and-so, and my son Jonathan says so-and-so,' R. Abiathar asked: 'Can it be that the Almighty is uncertain?' He replied: Both [views] are the word of the living God ('*elu we'elu divrey 'Elohim kayim hen*'). He [the Levite] found a fly and excused it, he found a hair and did not excuse it. Reb Judah explained: He found a fly in his food and a hair in *loco concubitus*; the fly was disgusting, but the hair was dangerous. Some say, both {the fly and the hair} were in his food but the fly was not her fault, while the hair was.

When Elijah is asked how God could have any doubts about who is correct in these contested opinions, he replies that both views are consonant with the 'words of the Living God,' for they do not, in fact, contradict one another but refer, respectively, to two different instances, one concerning a fly, the other a hair. So, in this case at least, '*elu we'elu*' not only does not support the legitimacy of both opposing views, but also reformulates the dispute so that there is no genuine disagreement. The implication is that a genuine disagreement would entail that at least one view was false and thus be unacceptable; this case does not present such a disagreement.

It is, however, the far more famous appearance of the term '*elu we'elu*' in the *Babylonian*

Talmud, 'Eruvin 13b that is regularly enlisted as supporting the view that both sides of a *halakhic* controversy are warranted in being steadfast about their respective opinions.

Rabbi Abba said in the name of Shmuel: For three years, the House of Hillel and the House of Shammai (*Beit Hillel* and *Beit Šammay*) were in dispute. One said, 'The *halakah* is like us,' and the other said, 'The *halakah* is like us.' A heavenly voice descended, and declared: 'These and these are the words of the living God,' ('*elu we'elu divrey 'Elohim kayim hen*) and the *halakah* is like the House of Hillel.' The question arose: Since the heavenly voice announced: 'Both these and those are the words of the Living God,' why is the *halakah* in accordance with the views of *Beit Hillel*? It is because the students of Hillel were gracious and humble. They taught the ideas of the students of Shammai as well as their own ideas; indeed, they went so far as to consider Shammai's opinions before considering their own opinions.

Here the principle of '*elu we'elu*' does seem to presume that we are dealing with a genuine conflict yet both sides have equal validity with regard to warrant, and it is only for extra-legal reasons that the law abides with *Beit Hillel*. The positions of *Beit Hillel* are favored, we are told, because of their superior moral qualities: they were *nokin* – gracious (or calm) and '*aluvin* – humble. We might think that the third quality mentioned, *Beit Hillel*'s intellectual virtue of open-mindedness toward opposing points of view encouraged a more balanced examination of the evidence and therefore a reason to think they were more likely than *Beit Šammay* to reach the truth.⁵ If so, then peer symmetry is not sustained here, so this would not serve as evidence in support of steadfastness in genuine peer disagreements. However, there is no evidence that *Beit Hillel* considered their adversaries as less than their peers, albeit mistaken in their rulings. Indeed, the *Talmud* suggests elsewhere (*Babylonian Talmud*, *Yevamot* 14a) that, if anything, *Beit Šammay* was the *m'kadadidey tfey*, intellectually sharper than *Beit Hillel*. Nor should we deduce the converse, as some commentators recommend we do: we follow *Beit Hillel* because they were the more conciliatory (followers of peace as modeled by Aaron rather than Moses – see the *Babylonian Talmud*, *Sanhedrin* 6-7) and not steadfast as was *Beit Šammay*. Rather, the *Bat Qol*'s declaration of '*elu we'elu*' does seem to straightforwardly assert a genuine disagreement between equal adversaries. Nonetheless, this dictum cannot be relied on as supporting steadfastness.

4. Three Interpretations of '*elu we'elu*'

The central, immediate and obvious challenge to '*elu we'elu*' is that it appears to violate the law of non-contradiction: *X* cannot simultaneously and in the same respect be both *Y* and not *Y*. How, then, can both sides of the Talmudic disagreement have equal validity? One renders the cow *košer*, the other *trejf*, one side claims the vessel is pure, the other impure, one says the lighting of the *hanukah* menorah should begin with one candle and increase to eight, the other says we are to begin with eight candles and decrease to one. At least one view must be false.

Over the millennia, numerous responses have been proposed to address this challenge. We can profitably cluster these responses into three broad categories.

An analogy to these categories can be drawn to three perspectives on the role of a sports referee, a baseball umpire, say, calling balls and strikes.

- (A) Umpire 1: 'I call them as they are.'
- (B) Umpire 2: 'I call them as I see them.'
- (C) Umpire 3: 'They aren't until I call them.'

4.1. Disagreement as Case-Dependent

This response to the non-contradiction challenge turns on a distinction between the reasons for ruling

P, the *ratio decidendi*, and the ruling of *P* itself. The arguments posited for claiming $\sim P$ might be as compelling as those offered in support of *P*, but those arguments happen not to be conclusive in particular case *C*. They might be persuasive, however in some similar case *C1*. This is the perspective, for example, proposed by Rashi (commentary to the *Babylonian Talmud*, *Ketubot* 57a, s.v. *ka mašm'a lan*). Rashi acknowledges that when two decisors pose contradictory positions about the attribution of a doctrine to an individual authority, one of these disputants must be mistaken, but when the debate is over a matter of permissibility or prohibition, or a matter of civil law, neither reasoning need be wrong: '[I]t is appropriate to declare *'elu we'elu divrey 'Elohim kayim*. There are times when one reason is applicable, and times that the other reason is, because what is the appropriate reason can change with a change of circumstances, even if the change in circumstances is only slight.'⁶

This case-dependent approach grants that there is, indeed, one unique correct ruling, some single 'truth out there' with regard to each circumstance, although the reasoning that supports that truth might apply in one instance but not in another similar circumstance. As a consequence, it follows that we should allow the retention of dissenting opinion in the corpus of *halakhic* discourse. Dissenting opinions not only help clarify the correct opinion, but should be preserved for their own integrity, and as the *Mišnah* asserts, they might later be used as a precedent (*Mišnah*, 'Eduyot 1:4-5).

So as does umpire *A*, the decisor aims 'to call them as they are.' Therefore, when a third party asserts *'elu we'elu* about some peer disagreement, he is only claiming that the disputing parties are equally reasonable, but as there is only one way 'they are,' one of the disputants fails to make his case. With regard to the dispute between *Beit Hillel* and *Beit Šammai*, God knows who has the correct rulings and so declares the victorious party, but between the peers themselves there is no such knowledge and therefore no apparent reason to maintain steadfastness. The appeal to *'elu we'elu* does not suffice.

4.2. Disagreement as Tracking Multiple Truths

This approach evokes the perspective of legal pluralism and also has a distinguished and continuing pedigree in explanations of *'elu we'elu*. According to this view, the problem of contradiction is resolved by stipulating there are 'multiple truths' to which each side of a 'heavenly dispute' respectively and accurately corresponds. As a result, no contradictory propositions are averred – the claims are, therefore, compatible. It is reasonable, therefore, to maintain one's own view, as one's peer is not in genuine disagreement.

A reference to a discussion in the *Kagigah* (*Babylonian Talmud*, *Kagigah* 3b) is sometimes alluded to as an endorsement of this perspective:

The masters of assemblies' refer to the disciples of the wise who sit in the assemblies and occupy themselves with Torah, some pronouncing unclean and others pronouncing clean, some prohibiting and others permitting, some declaring unfit what others declare fit. Should someone ask: How then shall I learn Torah? Therefore the text says: 'All of them are given from one Shepherd. One God gave them; one leader repeated them from the mouth of the Lord of all creation, blessed be He; for it is written: (*Exodus* 20:1) 'And God spoke all these words'.

In an influential comment, the well-known Talmudist, Ritva (Yom Tov ben Avraham Asevilli 1260s – 1320s) refers to the 'the French rabbis' who understand *'elu we'elu* as expressing this notion of multiple truths:

When Moses went up to receive the Torah, they [the angels] showed him on every issue 49 views to forbid and 49 views to permit. When he asked God about this, he was told

that these decisions will be handed to the sages of Israel of each generation and the ruling would be like them.

As this pluralistic view is often expressed: God showed Moses many possibilities within every matter and there is no single, original Truth. Therefore, the decision procedure by which *halakhic* decisions are reached can non-defectively conclude with two incompatible rulings.⁷

The notion of *'elu we'elu* as indicating 'multiple truths' is an especially popular theme in *Qabbalah*, where a plethora of *midrašim* and Talmudic passages are alluded to in support of the pluralistic thesis. So, as does Umpire (*B*), the decisor calls them as he sees them. His judgment tracks a truth, the one he perceives. That is enough inasmuch as there is no single Truth which defeats other reasonable perspectives.⁸

This understanding of *halakhic* judgments has its epistemic parallel in alethic or, as it is sometimes called, semantic relativism. This relativist view is motivated by the observation that facts about the world appear in different ways to different people and nothing makes it true that they, in fact, are one way rather than another. More specifically: we should not construe *S*'s claim in the form '*P* justifies belief *Q*' as the claim *P justifies belief Q* but rather as asserting: According to the epistemic system *C* that I, *S* adopt, information *P* justifies belief *Q*.

Epistemic relativism admits of some serious criticism and unpacking the concept of multiple-truths is no easy task, but, thankfully, not a task that need detain us at present. We should recognize, however, that in this explication as well, *'elu we'elu* sidesteps the problem of non-contradiction, by reformulating disagreement so as to diffuse it: the two views are compatible. Consequently, each side is justified in retaining its viewpoint. But this will not serve as a justification for steadfastness when there is genuine disagreement.

4.3. Disagreement as Performative

This explication of *'elu we'elu* also enjoys a distinguished and continuing advocacy and has affinities to the legal pluralist tradition.

Halakhic judgments, in this view, are not propositional assertions that aim to correspond to outside facts or meet criteria of coherence to other legal rulings. They have no 'truth value' as such. That is, nothing is intrinsically *košer* or non-*košer*, pure or impure but that an appropriate legal ruling makes it so. As umpire *C* avows, 'they aren't until I call them.' The *halakhic* declaration is a kind of performative speech act – it does not discover facts but creates them: the judge pronounces you husband and wife and you are thereby married, you say 'I promise to buy you a new sweater,' and you are now under an obligation to do so.

A Talmudic *locus classicus* for this view is the well-known story of *Aknay's* oven (*Babylonian Talmud, Bab'a Mezy'a* 59a-b). Here, a *Bat Qol* in favor of Rabbi Eliezer's opinion is rejected in favor of the view of the majority because '*Torah lo bašamyin he,*' Torah is not in heaven, i.e. law is decided here in earth, by majority as stipulated in the Bible.⁹ Note that the rabbis here invoke scripture, the Word of God, to justify their rejection of the Word of God in His support of Rabbi Eliezer's minority pronouncement.

The challenge of non-contradiction is thereby parried: undecided *halakhic* claims lack truth-value and therefore cannot present genuine contradictory propositions. *Halakāh* is procedural not propositional. *'Elu we'elu* therefore grants standing to both sides as they are only provisional judgments. Again, this does not establish the justification for steadfastness in cases of genuine peer disagreements (as certainly might occur in non-*halakhic* Talmudic disagreements).

5. Questions Remain

As we have seen, the standard interpretations of *'elu we'elu* avoid the charge of permitting contradiction by diffusing actual opposition: only the reasoning process has equal validity, not the specific application; both sides of the dispute advocate for truths, but aim for different, compatible truths; or *halakhic* judgments are propositions that are true or false, but have legitimacy only as acceptable legal process. That each of these approaches will support maintaining one's opinion – *'elu we'elu* – is not surprising since, on each account, we are not dealing with a genuine disagreement.

If *'elu we'elu* does not explain why Talmudic arguments seem to favor a steadfast view, what does? Why do we not see systemic support for a conciliatory process? The problem is even more pronounced when we consider how Talmudic rabbis (and later *halakhists*) choose between disagreeing superiors.

The philosophic literature about disagreement has been largely devoted to disagreements between epistemic peers, far less so to disagreements with one's superiors. Presumably, that is because even the most extreme steadfasters would agree that when one is confronted by an epistemic superior – noting the usual caveats with regard to bias, access to special information and other relevant distortions – conciliation, complete or partial is mandated. If I am sitting with an expert on, say, Akkadian logic – a field I have little to no knowledge of – it would be obnoxious for me to submit my own contrary ideas about the subject with any sort of confidence: I lack the requisite epistemic standing. I should reasonably assume that the expert arguing for a particular thesis *P* is well aware of my elementary arguments for $\sim P$ and has superior reasons for rejecting $\sim P$. Matters are no different if I'm sitting with two authorities in this field who themselves differ about *P* – my evidence for $\sim P$ has clearly been defeated by the expert who asserts *P*. Nor should it matter whether those experts are sitting across me or live on the other side of the globe. Of course, there is a possibility that I might be lucky and have alighted on some hitherto obscure evidence in support of $\sim P$. Yes, and I might also guess this week's lottery number. I'd be utterly irrational to count on either development. I don't have the epistemic warrant to assert a point of view with confidence when my epistemic superior disagrees with that point of view.¹⁰

'Amor'ayim, traditionally, do not argue with *Tann'ayim*, allowing that they are their *halakhic* superiors. (One common reason for this deference is that *Tann'ayim* were a closer link on the chain to original transmission and therefore their testimony is more likely to reflect that original transmission). But how then can the *'Amor'a* choose to adopt claim *P*, the position of *Tann'a Q* when another *Tann'a K* argues $\sim P$? After all, by stipulation, the *'Amor'a* is the inferior of *K*, and should acknowledge that his own evidence for *P* is defeated by the likelihood that this evidence has been considered and rejected by his *halakhic* (epistemic) superior, *Tann'a K*. Now there might be extra-rational reasons for following in practice one *Tann'a* rather than another, reasons, say, of familial or pedagogical legacy, but there would be no grounds for this *'Amor'a* to assert with confidence that his own view has any more chance of being true than that of the opposing view. Through His *Bat Qol*, God can pronounce who is right in a *Tann'ayitic* peer dispute, for, after all, He is their epistemic superior. But how can their *'Amor'aic* inferiors make this decision? Here one would suppose, conciliation would seem particularly apt.

To conclude: Why, indeed, is conciliation not recommended with regard to Talmudic peer disputes? On what grounds can inferiors choose between disagreeing superiors? *'Elu we'elu* doesn't provide the requisite answers. I'm not sure what does.

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Notes

1. The impetus toward compromise when dealing with peer disagreement is even more compelling when one is confronted by two competing 'truthometers,' non-human peers. For example, one consults his two watches, both of equal reputable, reliable status, but one says it's 10:10 and the other 10:20. On this view, it's most reasonable to go with 10:15.
2. The literature on this topic is, as noted, already vast. This is even so for the various subtopics of epistemic peer disagreement including religious disagreements, moral disagreements, and aesthetic disagreements.
3. A *Talmud* fault line of justification is sometimes suggested dividing those *Tann'ayim* who favor tradition as crucial support for one's position, a view ascribed to Shammai, Rabban Yoḥanan ben Zakai and later represented by Eliezer ben Hyrcanus, as opposed to *Tann'ayim* who leaned more toward creative interpretation, a view ascribed to Hillel and represented later by Reb Yehoshua (as in his confrontation with R' Eliezer). For a useful explication of this divide see [12].
4. The occurrence of the phrase 'elu we'elu in the *Talmud Yerushalmi*, *Beraḳot* 1:4 refers to the *Bat Qol* announced with regard to the rivalry between *Beit Hillel* and *Beit Šammai* as it does in the *Bavli*.
5. The *Talmud Yerušalmi* (*Sukkah* 2:8 53 b) offers two reasons why *Beit Hillel*'s views were implemented. The first, that *Beit Hillel* considered *Beit Šammai*'s opinion before considering their own is rejected; neither House considered the other's first. Rather, the law was decided according to *Beit Hillel* because they were willing to change their opinion when convinced by the arguments of *Beit Šammai*. For the *Yerušalmi*, in keeping with its general negative attitude toward debate and its preference for a clear decision, this willingness to change one's view is significant for it is more likely to lead to a correct ruling. Richard Hidary provides a thorough review of the history of, and the Talmudic attitude toward, the division between *Beit Hillel* and *Beit Šammai* [6].
6. Rambam grants rabbinic legislation authority as long as it doesn't claim to be 'from Sinai'; the Sinaiic message is immutable. Rambam never mentions 'elu we'elu, as he believes the primary purpose of one's study should be to reach *halakhic* conclusions, not analyze arguments. Thus, he specifically omits all rejected opinions from his *Peruš ha-Mišna'yot* and *Mišneh Torah*.
7. A number of scholars have argued that a pluralistic attitude underlies the general bent of the *Bavli* authors, that 'truth is interminable and that alternative views can encompass different aspects of the whole truth' [7].
8. Avi Sagi (1994) similarly distinguishes between the 'discovery model' akin to the first approach to 'elu w'elu and a 'creative model' represented in this second approach. Moshe Halbertal [5] proposes a division like this, describing one approach as 'the retrieval view' the other as the 'constitutive view.'
9. The laws of *zaken mamr'e*, the rebellious elder, described in the Bible (*Deuteronomy* 17:8-13) allocate full judicial power to the high court. The Talmudic rabbis have interpreted these laws to license their suppression of dissenting rabbis (*Mišnah*, *Sanhedrin* 11b). On the other hand, permission in some cases is granted to learned persons who believe the court

has erred (*Babylonian Talmud, Horayot*). Rendering these two different attitudes cohesive has been a focus of much Talmudic commentary.

10. If this point seems to suggest that we are rarely epistemically entitled to hold to most of our opinions, given that we lack expertise about most things, this is the conclusion I do in fact embrace and argue for in [4].