

May 22nd, 9:00 AM - May 25th, 5:00 PM

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Argumentation and the epistemology of disagreement

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ABSTRACT: When epistemic peers disagree, what should a virtuous arguer do? Several options have been defended in the recent literature on the epistemology of disagreement, which connects interestingly to the controversy launched by Fogelin's famous paper on 'deep disagreement.' I will argue that Fogelin's case is transformed by the new work on disagreement, and that when seen in that broader epistemological context 'deep' disagreement is much less problematic for argumentation theory than it once seemed.

KEYWORDS: deep disagreement, Feldman, Fogelin, peer disagreement, reasonable disagreement, Wittgenstein

1. INTRODUCTION

When epistemic peers disagree, what should a virtuous and rational arguer do? Should she give up her belief in the face of such disagreement? Stick to her guns? Split the difference? Suspend judgment? All of these options have been defended in the recent literature on the epistemology of disagreement. This literature, of considerable interest on its own, also brings to mind the controversy launched by Robert Fogelin's famous paper on 'deep disagreement', thus raising the question: Does the 'depth' of a disagreement have implications concerning the appropriate argumentative response to disagreement among epistemic peers?

In this paper I will first explore the epistemology-of-disagreement literature on its own terms, and argue that (a) it conflates cases that should be treated differently, (b) rests far too heavily on an under-analyzed notion of 'epistemic peer', and (c) when 'peerhood' is suitably specified much of the controversy evaporates. I will then turn to issues concerning argumentation and argue both that Fogelin's case concerning deep disagreement is problematic and that once 'peerhood' is introduced 'deep' disagreement is much less problematic for argumentation theory than it has seemed.

2. HOW SHOULD AN EPISTEMIC AGENT RESPOND TO PEER DISAGREEMENT? CAN SUCH DISAGREEMENTS BE REASONABLE?

Consider cases of seemingly reasonable disagreement among peers. In legal cases,

jurors can seem to reasonably disagree about the guilt of a defendant in a difficult case. Scientists seem to reasonably disagree about the cause of the extinction of the dinosaurs, the safety and effectiveness of a wide range of drugs and medical procedures, and many other live topics as well. Politicians and citizens seem to reasonably disagree – at least some of their disagreements seem reasonable – about the legalization of marijuana use, same sex marriage, the appropriate size of the foreign aid budget, etc. Religious believers seem to reasonably disagree about all sorts of doctrinal questions and interpretations of mutually accepted central texts, and of course about matters that cut across different faith traditions. And philosophers seem to disagree, at least sometimes reasonably, about almost everything. Consider the remark of Peter van Inwagen concerning his differences with David Lewis:

How can I believe (as I do) that free will is incompatible with determinism or that unrealized possibilities are not physical objects or that human beings are not four-dimensional things extended in time as well as in space, when David Lewis – a philosopher of truly formidable intelligence and insight and ability – rejects these things I believe and is already aware of and understands perfectly every argument that I could produce in their defense? (van Inwagen, 1996, p. 138, cited in Feldman, 2006, p. 218)

It may be unclear whether the disagreement between van Inwagen and Lewis is reasonable. But some such disagreements will surely strike some of us as reasonable. As Richard Feldman puts it, such cases “involve intelligent, serious, and thoughtful people with access to the relevant available information who come to different and incompatible conclusions. At least superficially, both parties to the disagreement seem to be reasonable in their beliefs. There is at least a temptation to say that people on both sides are reasonable, and thus that they are cases in which reasonable people can disagree.” (Feldman, 2006, p. 219) Indeed, “Cases of seemingly reasonable disagreements are all around us.” (*ibid.*, p. 217) Nevertheless, Feldman holds that despite appearances, such cases are *not* reasonable. In such cases, Feldman says, participants should give up their belief (once the disagreement is revealed) and suspend judgment:

[In such cases] the skeptical conclusion is the reasonable one: it is not the case that both points of view are reasonable, and it is not the case that one’s own point of view is somehow privileged. Rather, suspension of judgment is called for. (*ibid.*, p. 235)

In order to understand Feldman’s reasoning here, let’s consider some cases that have received extensive treatment in the literature.

Restaurant Case: We are out among friends at a familiar restaurant. The bill comes, we agree to split it evenly, we’re both good at mental arithmetic and we each calculate our shares. I get \$43, you get \$45.

What should we do? According to David Christensen, we should *lower our confidence in our answers* in light of our disagreement. Each of us should revise our

beliefs in the direction of the other's: "I should lower my confidence that my share is \$43 and raise my confidence that it's \$45. In fact, I think (though this is perhaps less obvious) that I should now accord these two hypotheses roughly equal credence." (Christensen, 2007, p. 193) As Christensen emphasizes, such disagreements are good things, epistemically speaking: my colleague's differing opinion provides an *opportunity for epistemic improvement*. (*ibid.*, p. 194)

Why not say that in this case I should think my colleague, a peer, got it wrong this time and so I should not revise? Christensen's answer rests on the fact that our situations are *symmetrical*: my colleague can reason in the very same way. So if the disagreement gives me good reason to believe that she erred in this case, she has equally good reason to think that I erred. And I can see this from my own 1st-person perspective. As Christensen says, I should use my peers as *checks on my own thinking*: "Fortunately, trapped though I am in my own epistemic perspective, I am perfectly capable of taking an impartial attitude toward some of my own beliefs and using the varied opinions of others as resources for my own epistemic improvement." (*ibid.*, p. 204) And so: "[I]nsofar as I fail to take [my peers'] beliefs into account when revising mine, I believe irrationally." (*ibid.*, p. 205)

The general lesson concerning peer disagreement, according to Christensen, is that we must (if we are rational) take account of our fallibility, of our being less than ideally rational agents. As he asks, "What's the ideally rational response to evidence that I'm not ideally rational?" (*ibid.*, p. 208) His answer is that we should regard peer disagreement as *evidence of our actually having made a mistake*. Peer disagreement increases the probability that we have. And if we're rational, we adjust our beliefs accordingly. (*ibid.*, pp. 208-210)

While Christensen recommends "splitting the difference" (*ibid.*, p. 203) with our disagreeing peer so long as my peer is no more likely to be mistaken than I am, Feldman suggests that such disagreement in fact requires that we give up our beliefs altogether and instead *suspend judgment*: "My conclusion will be that, more often than we might have thought, suspension of judgment is the epistemically proper attitude. It follows that in such cases we lack reasonable belief and so, at least on standard conceptions, knowledge. This is a kind of contingent real-world skepticism..." (Feldman, 2006, p. 217)

Consider the situation-sketch in which such disagreement occurs:

Pro: believes that *p*.

Con: believes that not-*p*.

Feldman distinguishes between two stages in assessing the reasonableness of such disagreement. In Stage 1, *Isolation*, Both Pro and Con evaluate evidence *E* and come to their respective judgments. At this stage they are unaware of the disagreement. In Stage 2, *Full Disclosure*, Pro and Con thoroughly discuss the issue and recognize that they are peers and that they disagree. The question is: Can they *reasonably* disagree? Feldman grants that Pro and Con can reasonably disagree in isolation, but denies that they can reasonably disagree after full disclosure. Nor can they each regard the other's (disagreeing) belief as reasonable; they cannot have "mutually recognized reasonable disagreement." (*ibid.*, p. 220)

Feldman considers and rejects four reasons for thinking that such disagreements might be reasonable: both parties might have private evidence that the other lacks; the parties might have different frameworks/starting points; they might both be entitled to self-trust; and they each might benefit from divided evidence. It will be worthwhile briefly to consider the second, and Feldman's response, because they will play a role in our consideration of 'deep' disagreement below. Consider disagreements that come down to different 'frameworks' or 'starting points' (e.g., religious/philosophical/political): Suppose that I believe that belief based on faith rather than evidence is never reasonable; you believe that it can be in some domains or cases. Our disagreement involves some issue in which our differing starting points are involved, e.g., concerning the likely future of the Roman Catholic Church given the ascension to the papacy of Pope Francis. My prediction is based on such things as population measures and trends of Church membership on different continents, changing attitudes in those regions concerning such questions as abortion, gay marriage and extra-marital sex, the recent sex abuse scandal, and larger political forces at work around the globe, while yours is based on your faith in the God of the Church and His Divine Guidance of the new Pope. So we start from very different frameworks, and arrive at very different beliefs concerning the future of the Church. Can our disagreement be reasonable? Or, to take a very different example offered by Feldman, taken from the columnist David Brooks (*ibid.*, p. 225), consider political disagreements between those who embrace the Goldwateresque virtues of self-reliance and independence and those who favor the Kennedyesque virtues of justice, tolerance and interdependence. Can such disagreements be reasonable?

It may seem as though such disagreements can indeed be reasonable: after all, my disagreeing peers (let us suppose) are just as intelligent and just as good at evaluating evidence as I am, and have the same evidence and care just as much about the truth as I do. If we suppose that they are as entitled to their starting points as I am, shouldn't we think that our disagreement is, or at least can be, reasonable? The answer, Feldman argues, depends on what we say about the differing starting points or frameworks. Are these starting points automatically rational? Does their rationality 'come for free' (*ibid.*, p. 225)? If so, disagreement can it seems be reasonable. But in full disclosure, how can the starting points retain their justification? Perhaps in isolation each might be justified, but once each party sees that the other's starting point is justified in the same way (e.g., by intuitive appeal), how can she continue to think her starting point more justified? Feldman argues that suspension of judgment is called for:

Apart from the fact that it conflicts with one's own starting point, by hypothesis neither person has a reason not to view the other starting point as equally acceptable. The problem is that once these starting points are brought out into the open, they are every bit as open to rational scrutiny as anything else is. Once one sees that there are alternatives to a starting point one has previously preferred, either one has a reason to continue with that preference or one does not. If one does, then that reason can be voiced and its merits assessed. And the result of that assessment will be that one side in a disagreement withstands scrutiny or that suspension of judgment is called for. (*ibid.*, p. 226)

Thus Feldman concludes that there is ‘no free lunch’ for frameworks or starting points; their rational status is as open to challenge and defense as any of our other beliefs. We will return to this matter below.

If Feldman is right, there is no good basis for the view that there can be reasonable disagreement after full disclosure. If not, can one side be reasonable in maintaining belief after full disclosure, or is neither reasonable? One might argue that Pro’s belief might be reasonable in that the evidence *E* objectively supports it, while Con’s, which is not so supported by *E*, is not. In such a case we might be tempted to say that there can be no reasonable disagreement, but that one side’s reasonableness survives: Pro’s belief is reasonable; Con’s is not. Feldman rejects this way of understanding such cases, arguing that while it may be correct that *E* objectively supports Pro’s belief that *p*, in realistic cases it doesn’t help to secure the reasonableness of Pro’s belief. Suppose *E* objectively supports *p*. Pro then is justified. But it is not obvious (in typical realistic cases) that *E* really does support *p*; Con thinks it supports not-*p*. In full disclosure, Pro sees that Con thinks that *E* supports not-*p*. Given the symmetry of their positions, Pro is not justified in believing that *E* supports *p*. So Pro is not justified in believing that *p*, even though, we are presupposing, *E* in fact objectively supports *p*. The problem remains: the symmetry of the situation renders reasonable disagreement in full disclosure elusive.

And so Feldman reaches his ‘skeptical conclusion’:

[I]n situations of full disclosure, where there are not evident asymmetries, the parties to the disagreement would be reasonable in suspending judgment about the matter at hand. There are, in other words, no reasonable disagreements after full disclosure, and thus no mutually recognized reasonable disagreements. The cases that seem to be cases of reasonable disagreement are cases in which the reasonable attitude is really suspension of judgment. (*ibid.*, p. 235)

If Feldman is right, not only can there not be reasonable disagreements, it cannot be reasonable to believe that *p* even when *E* objectively supports it if one is in the situation of peer disagreement after full disclosure. This is a far-reaching skepticism indeed, extending at least to most of our religious, political, philosophical and other beliefs. Is he right?

The case for suspension of judgment articulated by Feldman has a long and distinguished history. As Thomas Kelly points out, Henry Sidgwick made essentially the same point in 1874:

...if I find any of my judgements, intuitive or inferential, in direct conflict with a judgement of some other mind, there must be error somewhere: and if I have no more reason to suspect error in the other mind than in my own, reflective comparison between the two judgements necessarily reduces me...to a state of neutrality. (Sidgwick, 1981, p. 342, cited by Kelly, 2005, p. 169)

Sextus Empiricus made it nearly two millennia earlier. So have Montaigne and more recently Keith Lehrer and the economist Robert J. Aumann. (Cf. Kelly, 2005, pp. 169-70)

Nevertheless, Kelly rejects this view in favor of the view that Feldman just dismissed as not helping in realistic cases: A believer should not ‘split the difference’ or ‘suspend judgment’, but rather *stick to her guns*, as long as the evidence objectively supports the belief in question. Despite the intuitive appeal of conciliatory views such as splitting the difference and suspending judgment,

Disagreement does not provide a good reason for skepticism or to change one’s original view...once I have thoroughly scrutinized the available evidence and arguments that bear on some question, the mere fact that an epistemic peer strongly disagrees with me about how that question should be answered does not itself tend to undermine the rationality of my continuing to believe as I do. Even if I confidently retain my original view in the face of such disagreement, my doing so need not constitute a failure of rationality. Indeed, confidently retaining my original belief might well be the *uniquely* reasonable response in such circumstances. (*ibid.*, p. 170, emphasis in original)

On Kelly’s analysis (as on Christensen’s and Feldman’s), the issue crucially turns on considerations of symmetry: How can I rationally stick to my guns if my evidence, etc. is counter-balanced by yours? The crucial difference is *our contrary evaluations of the evidence*:

...things are perfectly symmetrical between us. Then a body of evidence is introduced, and we are asked to make a judgement about how strongly that body of evidence confirms or disconfirms a certain hypothesis. Suppose that, as it turns out, you and I disagree. From my perspective, of course, this means that you have misjudged the probative force of the evidence. The question then is this: why shouldn’t I take *this* difference between us as a relevant difference, one which effectively breaks the otherwise perfect symmetry? (*ibid.*, p.179, emphasis in original)

As Kelly notes, doing so does not mean we’re not peers, but only that on this occasion you got it wrong: “All I need to assume is that *on this particular occasion* I have done a better job with respect to weighing the evidence and competing considerations than [you] have.” (*ibid.*, p. 180, emphasis in original) Suppose you reason in the parallel way and conclude that it is *you* who have done a better job on this occasion? In this case “The rationality of the parties...will typically depend on who has *in fact* correctly evaluated the available evidence and who has not” (*ibid.*, emphasis in original):

[T]he rationality of one’s believing as one does is not threatened by the fact that there are those who believe otherwise. Rather, any threat to the rationality of one’s believing as one does depends on whether those who believe otherwise have good reasons for believing as they do – reasons that one has failed to accurately appreciate in arriving at one’s own view. (*ibid.*, pp. 180-1)

Kelly's view to this point might seem to presuppose that the fact that my peer disagrees does not count as evidence against my belief, but it does not. Suppose rather that my peer's disagreement with me *does* count as evidence against my belief. Should we then split the difference with our peers or suspend judgment in cases of disagreement? Kelly says that we should not. Consider: In isolation, I *unreasonably* believe that not- p on the basis of E ; you *reasonably* believe that p on the basis of E ; my belief is unreasonable because E *actually, in fact* supports p . We then become aware of each other's views. Now our total (shared) evidence is E' :

- E' : (i) the original, first-order evidence E ,
 (ii) the fact that you believe that p on the basis of E , and
 (iii) the fact that I believe that not- p on the basis of E . (cf. p. 190)

In such a case E is the major part of E' ; the new evidence (ii) and (iii) should not force either of us to change our views. You would rightly reason: 'Well, my peer disagrees with me. Nevertheless, the significance of that fact is minor compared to the strength with which E supports p . That strength doesn't disappear just because my peer disagrees.'

Kelly concludes that "Our original evidence E does not simply vanish or become irrelevant once we learn what the other person believes on the basis of that evidence: rather, it continues to play a role as an important subset of the new total evidence E' . In general, what one is and is not justified in believing on the basis of E' will depend a great deal on the character of the first-order evidence E ." (*ibid.*, p. 190) So even if we treat the higher-order evidence as evidence concerning p , "it does not follow that agnosticism or suspension of judgement is the correct response to such disputes." (*ibid.*, p. 190) More generally, if Kelly is correct, peer disagreement does not have the epistemic significance that Christensen, Feldman and other defenders of conciliation think it does.

Let us briefly summarize the state of play thus far. All three of our authors agree that the fact that a peer disagrees with one constitutes evidence that is relevant to the rationality of one's belief. That is, they endorse Feldman's principle that "evidence of evidence is evidence" (Feldman, 2006, p. 223)¹: the fact that my peer disagrees with me constitutes evidence against my belief. For Christensen and Feldman, the strength of this particular piece of evidence is (at least often) sufficient to throw the rationality of my continuing to believe it into doubt; for Kelly it is (at least often) swamped by the rest of my evidence, which, if it objectively supports my belief, outweighs the evidence supplied by the fact of disagreement. Is this as far as

¹ Feldman offers two formulations of his *Evidence of evidence is evidence* principle: "Evidence that there is evidence for p is evidence for p . Knowing that the other has an insight provides each of them with evidence." (Feldman, 2006, p. 223); and "If S has evidence for the proposition that evidence exists in support of p , then S has evidence for p ." (Feldman, 2009, p. 308) Such evidence of evidence is best thought of in my view as *indirect* evidence – to have it I don't need to know what it is or how it supports p . If I read in a reliable place "The experts have evidence that p ", I thereby gain (indirect) evidence that p . I don't have the (direct) evidence for p that the experts have, but I nevertheless have evidence/reason to believe that p . (cf. Siegel, 1988)

we can go? Interestingly, both Feldman and Kelly modify their views – as conciliation recommends – in the name of ‘total evidence’. Let us briefly sketch this reconciliation.

3. PEER DISAGREEMENT AS EVIDENCE AND THE TOTAL EVIDENCE VIEW

Feldman has long been a prominent defender of *Evidentialism*, the view of epistemic justification according to which *S* is justified in believing that *p* at *t* iff *S*'s evidence at *t* on balance supports *p*. (Feldman, 2009, p. 294) Unsurprisingly, in this more recent paper Feldman argues that puzzles about disagreement provide no reason to abandon evidentialism. Moreover, he argues that there are “no true general epistemic principles about justified responses to disagreement other than the general evidentialist principle.” (*ibid.*) However, as we have seen, on his view ‘evidence of evidence is evidence’; in particular, he holds that

(7) The proposition that *S*'s peer who shares *S*'s evidence concerning *p* disbelieves *p* is evidence against *p*. (*ibid.*, p. 298)²

On Feldman's view, (7) “expresses the key evidential fact about disagreements.” (*ibid.*) That is, *Evidentialism* + (7) is *the whole story* about the epistemology of disagreement. So:

If *S* justifiably believes *p* immediately prior to *t*, and *S* learns at *t* that an epistemic peer with respect to *p* who has evidence comparable to *S*'s concerning *p* disbelieves *p*, and *S* does not learn anything that counteracts the evidence provided by this, then *S* becomes less justified in believing *p* at *t*. (*ibid.*, p. 299)

Thus Feldman embraces (a version of) what has come to be called the *Total Evidence View (TEV)*: “It is the *total evidence* [including that concerning peer disagreement] that matters.” (*ibid.*, p. 301, emphasis added) How strong is the impact of such evidence? On Feldman's view there is no general answer to this question; it depends on the evidential state of play in the case at hand: “[I]nformation about peer disagreement [has] evidential impact, though what the overall result of learning such information will be depends upon the rest of one's evidence.” (*ibid.*, p. 302) There are no general epistemic principles about disagreement such as ‘suspend judgment’ (his 2006 view), ‘split the difference’ or ‘stick to your guns’. Rather, whether and how one should revise one's belief in the face of peer disagreement will depend on the totality of one's evidence. Sometimes the total evidence will dictate that one should abandon one's belief and suspend judgment; at other times it will dictate that one should split the difference with one's peer; at still other times it will dictate that one should stick to one's guns. It all depends on the total evidence, and the evidential impact of peer disagreement will vary from case to case, depending on the relative strength of the evidence afforded by peer disagreement compared to

² (7) is so labeled in Feldman, 2009, p. 298; I maintain the number for ease of reference.

the relative strength of the rest of the evidence operative in the case at hand. As Feldman summarizes his view,

In defending these views about disagreement, I am denying principles sometimes defended under titles such as 'Split the Difference' or 'Equal Weight'. However, I do not think I am disagreeing with a key thought that motivates such views. I am struck by the existence of disagreement and puzzled about its epistemic import. In thinking through this topic, a key question is whether it is reasonable to maintain one's belief in the face of peer disagreement. While I am not endorsing universal principles asserting that it is never reasonable to maintain one's belief, I am arguing that evidence of peer disagreement is evidence against one's original belief. It is consistent with this that, in many cases, it is strong evidence against one's original belief, strong enough to render that belief no longer justified. Thus, I continue to endorse the view that peer disagreement is epistemically significant and threatens to undermine the justification of many beliefs in areas of controversy. (*ibid.*, p. 304)

And he concludes:

I have attempted to defend a conciliatory view about disagreements without defending any general, widely-applicable principle about justified responses to disagreements. Instead, I have tried to provide some support for the view that the key truth behind the conciliatory view is captured in the claim that the proposition that a peer disagrees with you concerning a belief is evidence against the proposition you believe. This fact, combined with Evidentialism, implies that when you learn of a disagreement, you acquire evidence against what you believe. Exactly what impact this will have on what is supported by your overall evidence is a complex matter and will depend upon the details of each specific case." (*ibid.*, p. 311)

Need Kelly disagree? While in his earlier (2005) paper Kelly defended the incompatible 'stick to your guns' view, in his more recent paper (Kelly, 2010) he does not disagree. As we have seen, Kelly earlier defended the *Asymmetrical No Independent Weight View* (ANIWV): It is reasonable to give no weight to the opinion of a peer as long as one's own opinion is the reasonable response to the original evidence. (*ibid.*, p. 136) But in his more recent paper he reverses course and judges ANIWV to be false. Consider this case, from Kelly, 2010, p. 137:

The Conjecture: You prove a longstanding open mathematical conjecture, but your mathematician colleagues wrongly reject the proof.

In this case, Kelly argues, you should lower your confidence, even though your proof *E* successfully proves *p*. Their rejection is misleading evidence, but it's still evidence, so what it is reasonable for you to believe must reflect it. As Kelly spells out the lesson he takes from this case:

One should give some weight to one's peer's opinion, even when from the God's-eye point of view one has evaluated the evidence correctly and he has not. But why? Exactly because one does not occupy the God's-eye point of view with respect to the question of who has evaluated the evidence correctly and who has not. Typically, when one responds reasonably to a body of evidence, one is not utterly blind to the fact that one has done so; on the other hand, such facts are not perfectly transparent

either. Even if one has responded to the evidence impeccably on a given occasion, one might still have reason to doubt that one's performance was impeccable. Such a reason is provided when a peer responds to that same evidence differently. To give no weight to the fact that a peer responds to the evidence differently is in effect to treat it as certain that one's peer is the one who has misjudged the evidence. But it would be unreasonable to be certain of this, even when it is true. (Kelly, 2010, p. 138, notes deleted)

And so Kelly, like Feldman, endorses the *TEV*: "[W]hat is reasonable to believe depends on both the original, first-order evidence as well as on the higher-order evidence that is afforded by the fact that one's peers believe as they do." (*ibid.*, p. 142) That is, one must combine first-order and higher-order evidence to achieve a reasonable view concerning *p*. These considerations are typically complex and depend upon the evidential details of particular cases. The main point here is that on Kelly's 2010 view what is reasonable to believe in cases of peer disagreement depends on both sorts of evidence. Hence *TEV*.

Notice how similar Feldman's and Kelly's views are now. They both say that reasonableness is a function of evidence; that evidence includes higher-order evidence; that higher-order evidence is genuine evidence; and that whether or not (and if so how much) *S* should move in the direction of the disagreeing peer depends on the total evidence in play. Is there a substantial disagreement remaining between Feldman (the former champion of suspending judgment) and Kelly (the former champion of sticking to one's guns)? It seems that if there is any disagreement between them now, it concerns the proportion of cases in which 'giving way to one's peer' is justified by the total evidence; i.e., how many is 'many'. This seems a significant reconciliation indeed.³

4. CAN PEER DISAGREEMENTS BE REASONABLE? (AGAIN)

As we saw earlier, Feldman (2006) and some other conciliatory views reject the possibility of reasonable peer disagreement: because of the symmetrical nature of disagreements among peers, if it seems to a disagreeing peer that her peer's contrary view is equally epistemically worthy, that fact should lead her either to modify her belief and split the difference with her peer or give up her belief and suspend judgment because she sees her peer's view as being as well-justified as her own. Ernest Sosa and Catherine Z. Elgin disagree; both hold that reasonable disagreement is both possible and common. Consider:

Headache: You have a headache. Your reason for thinking you have a headache is simply *that* you do. But this won't help in the dispute with your boss, who thinks you're faking. (Sosa, 210, p. 286)

³ It is worth noting that for both Feldman and Kelly (and Sosa, see below) 'good evidence' ≠ 'potentially persuasive evidence'. Both reject the latter *dialectical conception of evidence*. (Kelly, 2010, pp. 170-2) This will be relevant below when we consider Fogelin and 'deep disagreement'.

Sosa notes that you cannot offer your reason to your boss in a dialectically effective way: since he thinks (and takes himself to have evidence that) you are a lazy employee who avoids work whenever possible and often fakes illness to avoid it, he will see your headache report as another such attempt. Nevertheless, the headache itself constitutes a good reason that justifies your belief. Sosa argues that the sensible thing in this case is to demote your boss: he's not your peer (with respect to this question): A reason can be *epistemically effective* despite being *dialectically ineffective*. (*ibid.*, p. 296)

Sosa offers a similar diagnosis of Christensen's Restaurant case, suitably revised. Suppose that after our initial disagreement I do the calculation with pencil and paper and then again with a calculator and still get my original answer. Now I should think: 'I don't know what went wrong with your calculation but something did, because now I'm quite sure mine is correct.' In effect, I *reasonably* demote you from peer status with respect to this question because I now have more confidence in my competence than in yours: "[W]hat changes is that after rechecking one is now more sure that one is right... than that one's opponent is not inferior on the question under dispute. And this is precisely our position vis-à-vis our opponents on controversial issues, or nearly always so." (*ibid.*, p. 295) So on Sosa's view it is reasonable for one to demote one's opponent from peer status strictly as a result of the substance of the disagreement, even in controversial issues. Because of symmetry, it is reasonable for your peer to do the same. So both are reasonable in maintaining their beliefs, though neither's reasons are such as to be dialectically effective in changing the mind of their disagreeing peer.⁴

Catherine Z. Elgin argues that in genuine inquiry, especially scientific inquiry, suspending judgment is too costly to be a generally defensible strategy. Her idea is that if scientists can work only with beliefs shared by all investigators, much if not most inquiry would be stopped by normal disagreement among investigators. Consider:

Neanderthal: "Two paleontologists, Jack and Jill, are epistemic peers who disagree about the fate of the Neanderthals. Jack believes that Neanderthals were an evolutionary dead end. Unable to compete, they simply died out. Jill believes that Neanderthals evolved into later hominids whose descendants are alive today. Because the issue is complex and the evidence is equivocal, they come to different conclusions about it." (Elgin, 2010, p. 54)

Elgin argues that in such a case it would be too costly to suspend judgment: "To suspend acceptance of all of them [i.e., controversial paleontological matters] leaves the paleontological community with few premises about their subject matter, yielding a flimsy and moth-eaten fabric of cognitive commitments. It is not clear how they should reason about the paleolithic period, if they can deploy only premises about which no peer disagrees." (*ibid.*, p. 65) On Elgin's view, whether to

⁴ It is worth noting that while Sosa offers here a case for reasonable disagreement, it is not a case for reasonable *peer* disagreement, since what makes each side reasonable in maintaining belief in the face of disagreement is precisely that the disagreeing party is no longer a peer. Cf. also Feldman's reply to Sosa (Feldman, 2009, p. 310).

accept, reject, or suspend judgment concerning p is a practical matter, dependent upon costs and benefits.⁵ So construed, reasonable disagreement seems innocent and common: no one is irrational in assessing the costs differently, as is suggested by the next case:

Jury: "Some jurors think the defendant is guilty; others think she is not guilty. They all have the same evidence and, let us assume, the same reasoning powers. They disagree because they assess the evidence differently. It is clear to everyone that some of the evidence offered at the trial is misleading. A member of an opposing gang placed the defendant near the scene of the crime. A member of her own gang said that she was across town. The jurors disagree about which witness is reliable. Some doubt the first, since she bears the defendant a grudge; some doubt the second witness, since she seems like the sort who would lie to help her friend. Neither of the witnesses comes off as a stellar character. Jury members might also disagree about the weight that attaches to various bits of evidence. How significant is it that the weapon was never found? How directly does the statistical evidence bear on a case like this? What should they make of the absence of fingerprints?" (*ibid.*, pp. 66-7)

Elgin argues that in such cases each juror can rationally retain her belief while recognizing the rationality of her disagreeing fellow juror. As Elgin argues, in the jury case generalized persistent disagreement would be practically problematic (in that the trial would not result in a just verdict but rather a hung jury). But in science and philosophy this is not true: reasonable disagreement permits both views to be further developed. Thus is acknowledged the division of cognitive labor. No one need be regarded as irrational. This is the best way to continue to develop and test controversial views. "In such cases [i.e., cases in which the relevant threshold of expertise/cognitive ability is met and the evidence is equivocal], peers who disagree have reason to consider each other wrong but not irrational." (*ibid.*, p. 68)

5. WHAT IS GOING ON HERE?

Let us step back and review the several cases and positions considered thus far.⁶ In all the cases and positions canvassed, the fact of disagreement constitutes evidence against one's belief. In Christensen's *Restaurant* case it counts heavily and perhaps supports 'split the difference', while in Sosa's *Revised Restaurant* case that same evidence – the fact of peer disagreement – counts not against one's belief but rather, in concert with other evidence (pencil and paper and hand calculator calculations), against one's interlocutor's status as a peer. In Kelly's *Conjecture* case the peer disagreement constitutes evidence against the belief in the validity of the proof but can (presumably) be outweighed by both the proof itself and new evidence of various kinds (further review of the proof by both you and others, etc.). Elgin's *Neanderthal* and *Jury* cases also treat disagreement as evidence, but of one's

⁵ Elgin argues that the issue should be reframed in terms of *acceptance* rather than belief. This is an important suggestion that I cannot pursue here.

⁶ There is of course more to the works discussed thus far than I have addressed, and many more works I have not mentioned. I regret the lack of attention.

disagreeing interlocutor's error or the equivocal status of the evidence rather than of your error or her lack of peer status.

The cases taken together suggest that the probative force of the evidence provided by disagreement depends on not just the strength of other available evidence but also on such things as: How confident are you and your peer in your judgments, and how justified is that confidence? How careful have you and your peer been? How much further investigation has been undertaken once the disagreement has come to light, and has the new evidence thus produced provided reason to change the status of the beliefs involved or the reasonableness of the disagreement? Is there any special reason to reduce the weight of one of your judgments? Is the issue 'adjudicable'⁷, such that one's and one's peers beliefs ought to be taken seriously? If so, how seriously?⁸

The cases also suggest differing positions concerning the possibility of reasonable peer disagreement: some suggest Feldman's view that apparently reasonable disagreements are at least often not cases of reasonable peer disagreement but are better seen as cases in which suspension of judgment is the appropriate attitude; others, like Christensen's *Restaurant* case, suggest that apparently reasonable disagreements are not such but are rather cases in which splitting the difference with one's peer is the appropriate response. These conciliatory views suggest that apparently reasonable peer disagreements are only apparently but not genuinely reasonable. Others, like Sosa's *Revised Restaurant* case, suggest that some disagreements are reasonable but are not peer disagreements because the disagreement itself challenges their peer status, and Elgin's *Neanderthal* and *Jury* cases suggest that some are best seen as cases of genuine reasonable peer disagreement.

Perhaps further reflection on the nature of peerhood can help resolve this disagreement concerning the possibility of reasonable peer disagreement. What is it to be a peer, and what specifically follows from the fact that it is a peer who disagrees? Is getting clearer on peerhood the way out of these difficulties?

6. WHAT IS A PEER?

What is an epistemic peer? A quick survey of the literature indicates that there are quite a few different notions in play. Feldman characterizes peers as "intelligent, serious, and thoughtful people with access to the same information." (2006, p. 219), he also characterizes 'the same information' in terms of "comparable evidence." (2009, pp. 296-9) Christensen describes them as equally well informed; equally likely to "react to that evidence in the right way"; "equally intelligent and rational"

⁷ Here I rely on and recommend Elgin (2012).

⁸ I have benefited here from Hadad (2013), which argues that there is an inverse relationship between the level of confidence one justifiably has in one's first-order evidence and both (1) the weight properly accorded to higher-order evidence of peer disagreement and (2) the extent to which one's methods of assessment of the probative force of the first-order evidence are 'rationally limited'. Thanks to Hadad for insightful discussion. Christensen makes a point very similar to Hadad's second point. (2007, p. 201)

(2007, p. 188); he also says that a peer is “one’s (at least approximate) equal in terms of exposure to the evidence, intelligence, freedom from bias, etc.” (Christensen, 2009, pp. 756-7) Kelly says of peers with respect to some question that “(i) they are equals with respect to their familiarity with the evidence and arguments which bear on that question, and (ii) they are equals with respect to general epistemic virtues such as intelligence, thoughtfulness, and freedom from bias.” (Kelly, 2005, pp. 175) Gary Gutting says that our peers are “our equals in the intellectual qualities needed to make good judgments about a given matter” (2012) and that epistemic peerhood is a matter of “intelligence, perspicacity, honesty, thoroughness, and other relevant epistemic virtues.” (1982, p. 83) Nathan L. King says that peers are “equally intelligent” and “equally well-informed” (King, 2012, p. 249) Elgin characterizes peerhood as involving “the same evidence, reasoning abilities, training, and background assumptions.” (2010, p. 53)

These characterizations of peerhood differ with respect to (at least) the following requirements:

a) Evidence: Must peers have the same evidence? (Elgin, 2010, p. 53; Kelly, 2005, pp. 174-5)? Approximately the same evidence? (Christensen, 2009, pp. 756-7; Elgin, 2010, p. 57) Comparable evidence? (Feldman, 2009, p. 299) Access to the same evidence? (Feldman, 2006, p. 219) Must they be equally well informed? (Christensen, 2007, p. 188)⁹

b) Epistemic Virtues (open-minded, rigorous, unbiased, charitable, fair-minded, reflective, intellectually serious, truth-loving, truth-seeking, etc.): Must peers be equally virtuous in every respect? Equally virtuous overall? Approximately equally virtuous?

c) Epistemic ability (argument evaluation, evidence assessment, inference, etc.): Must peers be equally able in every respect? Equally able overall? Approximately equally able?

d) Scope: *Is peerhood something general or rather limited to judgment of particular issues?* Are peers peers generally or only with respect to particular questions? If peers disagree with respect to a given issue, for Sosa the disagreement might provide one party with sufficient reason to demote the other from peer status, while for Kelly and Elgin they can remain peers – the disagreeing peer might be judged wrong on the particular question but still a peer. Moreover, sometimes it makes sense to limit peer status to particular questions (e.g., *Neanderthal* and *Conjecture*); at other times it seems appropriate to regard peer status as more general, for example concerning political issues (Righty: ‘Lefty and I are peers, even though we disagree about most political questions.’).

⁹ I here stop citing chapter and verse; suffice to say that all subsequent differing characterizations of the requirements of peerhood are manifest in the literature.

e) *Education/Training*: Do education or training count towards peer status? (Only Elgin mentions these, but she does so quite plausibly I think.) If so, must the education/training be the same? Approximately the same? Similar overall?

As is clear, what candidate peers must share in order to count as genuine peers differs on the accounts of peerhood available in the literature. Some are quite strict, which has the result that there are few if any instances of genuine peer disagreement.¹⁰ On such accounts reasonable peer disagreements are hard to come by, since genuine peer disagreements are themselves hard to come by. Other characterizations are more loose and vague, allowing for more frequent satisfaction of the criteria for peerhood and so more cases of genuine peer disagreement.

Several authors note that these conditions for peerhood, if taken strictly, are rarely met. Elgin notes that “[g]iven “the vicissitudes of education and abilities, and the idiosyncrasies of evidence-gathering, ordinary epistemic agents are apt to have few epistemic peers.” (2010, p. 57) So she urges that we characterize it more generously, such that epistemic peers have “*pretty much* the same relevant evidence, reasoning powers, training, and background information.” (*ibid.*, emphasis added) Feldman similarly observes that the notion of an epistemic peer is vague (though intuitively clear), and that efforts to make it more precise lead either to there not being any peers or to losing sight of similarities among disagree-ers that have epistemic significance. (2009, pp. 300-1) The important point, not to be lost by insisting on too strict an understanding of peerhood, is that peers enjoy a symmetry in epistemic standing; it is that standing that forces us to regard their disagreement with us as evidence against our belief: *ceteris paribus*, they are as likely as we are to get it right, and even when things are not quite equal their disagreement still counts against our belief.

The details of the accounts of peerhood in play also affect the prospects of reasonable peer disagreement: for example, if the fact that an apparent peer disagrees is sufficient to demote her from genuine peer status (as Sosa suggests in his discussion of his *Headache* and *Revised Restaurant* cases), there will be lots of reasonable disagreement but no reasonable *peer* disagreement since the disagreement is sufficient to render the parties non-peers. On the other hand, if peers can indeed disagree, their disagreement will count as reasonable only if the evidence is equivocal (Elgin). If they suspend judgment and so no longer disagree there is no reasonable peer disagreement (Feldman); similarly if they split the difference and so no longer disagree (Christensen).

7. LESSONS FROM THE DISAGREEMENTS ABOUT PEER DISAGREEMENT

What lessons can be taken from this complex literature? Here are some:

1. Sometimes the reasonable thing to do is split the difference; sometimes it's to suspend judgment; sometimes it's to maintain belief.

¹⁰ As King (2012) argues.

- What is reasonable depends on both the total evidence and the notion of 'peer' in play.
2. Suspension of judgment is often a reasonable response to disagreement. (Feldman)
 3. Disagreement offers the opportunity for epistemic improvement. (Christensen)
 4. 'Peerhood' is ambiguous and peerhood is often hard to determine and/or establish.
 5. The more demanding peerhood is specified, the harder it is both to regard disagree-ers as peers and to regard their disagreement as reasonable.
 6. The variety of cases treated in the literature (restaurant case, headache case, van Inwagen/Lewis case, conjecture case, scientific cases, political cases, etc.) are significantly different and demand different treatment.
 7. There do not seem to be any general epistemic principles concerning peer disagreement, other than *TEV*.

8. FOGELIN, WITTGENSTEIN AND 'DEEP' DISAGREEMENT

I want next to connect this recent epistemological work on peer disagreement to Robert Fogelin's well-known paper on 'deep disagreement'. Space prohibits a detailed presentation of Fogelin's analysis. What is salient here is that Fogelin holds that deep disagreements cannot be resolved: "But if deep disagreements can arise, what rational procedures can be used for their resolution? The drift of this discussion leads to the answer NONE." (Fogelin, 2005, p. 9, emphasis in original) His analysis is meant to apply to informal logic: "[Some] works in informal logic give the impression that they possess the resources to resolve such disagreements. With Wittgenstein I am skeptical." (*ibid.*) Fogelin is clear that his skepticism applies to all genuine cases of deep disagreements: "Is there any way of adjudicating a clash of this kind? I confess that I do not see how." (*ibid.*, p. 10)

One might ask whether Fogelin here "exaggerates a difficulty into an impossibility", as Popper engagingly put it. (1970, pp. 56-7) Is it really impossible, as a matter of principle, rationally to resolve deep disagreements? Fogelin concludes his paper by insisting that it is:

Still, what shall we say about deep disagreements? We can insist that not every disagreement is deep, that even with deep disagreements, people can argue well or badly. In the end, however, we should tell the truth: there are disagreements, sometimes on important issues, which by their nature, are not subject to rational resolution. (*ibid.*, p. 11)

It is worth emphasizing that on Fogelin's view, in cases of deep disagreement both rational resolution of the disagreement and argument itself are impossible. (*ibid.*, pp. 7-8) Is he right that some disagreements – the deep ones – are such that both rational resolution and argument itself are impossible? Andrew Lugg

emphasizes this distinction in his response to Fogelin. Lugg insists that we must distinguish between having resources sufficient to *engage* in argument vs. having resources sufficient to *resolve* a disagreement:

...the interesting case is the one in which individuals are able to argue yet unable to settle their differences, i.e., the case in which there exists a framework for disagreement but not one for bringing about its resolution... [Fogelin's examples (abortion, affirmative action)] are cases in which the 'language of argument' is entirely appropriate. True, the parties to these debates have had little success in convincing one another to change their views, but it can hardly be denied that they have been engaged in argument (some of it at an exceptionally high level). What makes these and similar cases interesting for proponents of informal logic is not that the parties fail to agree concerning the prerequisites for genuine argument but [that] their agreement with respect to these prerequisites is insufficient to settle the issues that separate them. (Lugg, 1986, pp. 47-8)

Fogelin may be right, Lugg suggests, that "individuals may find themselves in the situation of being unable to resolve their differences on the basis of shared commitments", but it doesn't follow that "in such cases argument is pointless and nonrational persuasion unavoidable." (*ibid.*, p. 48) Moreover, and more positively, he argues that rather than regarding argument concerning deep disagreements to be pointless because of the absence of shared commitments,

we [should] take common viewpoints to be what individuals move towards rather than what they fall back to. Instead of thinking of shared belief as a 'common court of appeal', we should think of it as a product of discussion, argument and debate. When we engage in argumentative exchange, our aim is not to determine what we and our opponents can agree on given the information that we share but to derive a common position, to figure out what we should believe, to ascertain the correct view of the matter. (*ibid.*, p. 49)

That is, our shared presuppositions provide a starting point but do not determine the end point of our argumentative exchange. In such exchanges, "ideas are disentangled, coordinated and systematized, reasons are marshalled, suspect assumptions are isolated, alternative proposals are reviewed, and conflicting demands are negotiated." (*ibid.*) Lugg concludes that Fogelin fails to take seriously enough his own view that arguing is something we *do*, an activity we engage in more or less well. Once we see it this way, worries about deep disagreements being "impervious to reason and antithetical to resolution by rational argumentative exchange" (*ibid.*, p. 50) fade away.

Lugg's critique and alternative conception of argumentation, conceived as an activity we engage in, seem to me quite plausible when understood as accounts of the activity of argumentation. But they do not cut to the heart of the matter in the way that Feldman's analysis does, in that they do not engage Fogelin's Wittgensteinian epistemological stance, which we must do in order to connect deep disagreement with the issues concerning peer disagreement discussed earlier. I turn to Feldman's view next.

As Feldman notes, for Fogelin "framework propositions depend for their support not on other individual propositions but rather 'on systems of mutually

supporting propositions (and paradigms, models and styles of acting and thinking.)' Differences over these matters are not amenable to rational resolution. His conclusion [that deep disagreements cannot be rationally resolved] follows." (Feldman, 2005, p. 14, citing Fogelin 2005, p. 9¹¹) Crucial to the evaluation of that conclusion is clarity concerning the constitution of a *rational resolution* of a disagreement. On Feldman's view, "[A] rational resolution of a disagreement is a resolution resulting from the use of the methods and techniques of rational thought. These are the methods typically developed in critical thinking courses...they include the use of arguments and the logical analysis of evidence." (Feldman, 2005, p. 15) Such a resolution is available "when there is some way of presenting arguments and evidence to which the rational response is a resolution of the disagreement (*i.e.*, there is some way of presenting arguments and evidence that should lead to a resolution)." (*ibid.*, p. 16) It is worth noting that on Feldman's view a rational resolution must include the *proper evaluation* (*ibid.*) of the proffered arguments and evidence. Moreover, a rational resolution might include mutual suspension of judgment: this too counts as a rational resolution of a disagreement. (*ibid.*) In non-framework examples, this is obvious. ('Who won the World Cup in 2010?') Does the situation differ when framework propositions are involved, *i.e.*, when the disagreement is 'deep'?

Consider Fogelin's example concerning the moral standing of groups in the affirmative action controversy. Here the relevant framework proposition, 'groups do/do not have moral standing', *can* be critically scrutinized. Resolution/agreement might be hard to achieve. But this does not show that a rational resolution is not available. (*ibid.*, pp. 18-21)

One might think that framework propositions are exceptions, and that rational resolutions are not available in disagreements concerning them, either because (1) participants have different evidence, (2) they can reasonably respond differently to the same evidence, or (3) the rational status of framework propositions does not depend on evidence. Feldman argues that none of these three reasons for thinking that framework propositions are exceptions succeeds. The first, that rational resolution is impossible because participants have different evidence, fails because in full disclosure all such evidence is shared or at least shareable, and even the fact of disagreement, when disclosed, furnishes both parties with shared evidence. (*ibid.*, p. 20) The second, that rational resolution is impossible because disagree-ers can reasonably respond differently to the same evidence, fails both because it violates the 'uniqueness thesis' that Feldman defends in his (2007) and because if the responses to the same evidence in such disagreements are genuinely reasonable, a rational resolution is available: since both are reasonable, neither side has a reason to prefer its resolution to the other's resolution, and so suspension of judgment is called for. (*ibid.*, pp. 20-1) The third, that rational resolution is impossible because the rational status of framework propositions doesn't depend on evidence, fails for the obvious reason: that rational status *does* depend on evidence. (More on this below.) And again, suspension of judgment is available and

¹¹ The internal citation from Fogelin's p. 9 is slightly inaccurate but not in a way that affects Feldman's characterization or subsequent criticism of Fogelin's view.

appropriate once the parties recognize that they have no reason to prefer their own favored resolution. (*ibid.*, p. 21) So rational resolutions are both possible and available in all three cases. Thus Feldman's conclusion: "Framework propositions, like other propositions, can be discussed and debated. They should be accepted or rejected, depending upon the evidence uncovered about them. And if the evidence is neutral, then suspension of judgment is the rational proper response. And this counts as a resolution of a disagreement." (*ibid.*, p. 21)

I think Feldman is right here, and that Fogelin is wrong.¹² But in order to establish this, we must pay more explicit attention to the Wittgensteinian epistemological views that drive Fogelin's account of deep disagreement. Is Fogelin's Wittgensteinian argument right? I turn to this question next.

9. THE PROBLEM WITH WITTGENSTEIN

Fogelin's case for his thesis that deep disagreements do not admit of rational resolution rests on his embrace of Wittgenstein's views concerning (if I may put it thus) the *limits of reason*. For Fogelin, deep disagreements are disagreements involving 'hinge' (Wittgenstein, 1969, #341-343) or 'framework' or 'river-bed' propositions (*ibid.*, #97) or 'underlying principles' or 'forms of life' (*ibid.*, #358) or 'language games' (*ibid.*, ##455-458, 559-560). On Wittgenstein's view, "...all enquiry on our part is set so as to exempt certain propositions from doubt, if they are ever formulated. They lie apart from the route travelled by enquiry." (*ibid.*, #88, emphasis in original) Such propositions, e.g., 'the earth exists' (*ibid.*, ##208-210), 'every human being has parents' (*ibid.*, #234), 'there are physical objects' (*ibid.*, #35), etc., are beyond rational challenge: they belong to "the *scaffolding* of our thoughts" (*ibid.*, #211, emphasis in original) and are "part of the whole *picture* which forms the starting-point of belief for me" (*ibid.*, #209, emphasis in original). Such propositions are exempt from enquiry, Wittgenstein argues, because they are both presupposed by enquiry and more certain than any reason we might have to doubt them. (*ibid.*, ##32, 111, 162-163, 243, 247-253, 282, 307, 341) On this view, "justification comes to an end" (*ibid.*, #192, 248) – in the end one has to say simply "my spade is turned"; "this is simply what I do." (Wittgenstein, 1958, #217)

Is Wittgenstein right about all this? Are 'hinge' propositions or claims in principle beyond the range of critical scrutiny? There are of course libraries full of scholarly disputations concerning Wittgenstein's views; I will refrain from entering into that scholarly fray here. But taking his claims at face value, there seem to be several reasons to doubt them – especially when considered in the context of argumentation and argument evaluation.

First: What exactly is being claimed when it is said that "justification comes to an end"? When Smith fails to offer a justification that Jones can or will accept, and cannot offer anything more by way of justification, what are we claiming when we say that her attempt at justification has come to an end: That *she*, in fact, can't say anything more at that moment? That there is nothing more that could be said, in

¹² It is worth asking: Is it true that in a deep disagreement there is *no* common ground? If there isn't, can it rightly be understood to be a disagreement? I will not pursue this point further here.

principle, by anyone, at any time? There are of course deep epistemological worries concerning infinite regress here. Nevertheless, it seems clear that a blanket hopelessness concerning further progress is premature. Even if Fogelin is right that in deep disagreements sufficient common ground is lacking, nothing he says suggests that such common ground (if in fact necessary for argumentation) cannot be built, as Lugg suggests. Moreover, such a lack does not mean that a rational resolution of the disagreement is unavailable, as Feldman argues. And it bears noting that forms of life and their hinge propositions change and evolve – for example, is it really hard to imagine, in these days of genetic engineering, that one day soon we will not think it beyond doubt that ‘every human being has parents’? – so that even if Wittgenstein is right that hinge propositions are unchallengeable, there is nothing necessary or permanent about that status.

Second: In cases in which agreement cannot readily be found, should virtuous and rational arguers keep trying, or throw up their hands in despair (or disgust) and agree to go their separate ways (or reach for their weapons)? Simply accepting the Wittgensteinian contention here seems contrary to the spirit of argumentative virtue, and to run afoul of the requirements of a thoroughgoing fallibilism as well. That we might always be mistaken is reason enough to keep conversing, discussing, arguing, and thinking.

Third: What should be said of the fact that the examples of ‘hinge’ propositions offered are in fact regularly discussed and challenged/defended in many Introduction to Philosophy courses, thus seemingly undermining the Wittgensteinian claims that in these cases the question of justification is inappropriate and that calling such propositions into question is ‘unintelligible’? Asking why we should believe in the existence of the external world in the face of Berkeley’s idealistic arguments is perfectly intelligible and appropriate, as is asking why we should continue to claim to know things in the face of the familiar skeptical arguments. The Wittgensteinian view is a profoundly anti-philosophical one that fans of the philosophical investigation of argumentation should challenge.

Wittgensteinian views of rationality and justification are sometimes defended on the basis of the claim that a central sense of ‘rationality’ “places the main emphasis on the individual’s participation in a form of life”. (Winch, 2006, p. 41) But this is problematic. Our ‘ways of making sense of the world’, which are often said by Wittgensteinians to flow from our forms of life, are not constitutive of rationality but rather are themselves subject to rational scrutiny along with the rest of our beliefs, judgments, actions, presuppositions and understandings. Granting for the sake of argument that such participation is necessary in order to make sense of the world and our place in it, the *rationality* of the beliefs, ‘hinge’ and other, that are presupposed by and emerge from such participation is not automatic but rather is open to and dependent upon the results of critical scrutiny.¹³

We should thus reject the Wittgensteinian starting point that there is no way to critically evaluate frameworks, forms of life, ‘starting points’ or ‘hinge propositions.’

¹³ The points made in this and the preceding paragraphs are addressed at greater length in Siegel (2008).

This point has been emphasized in the literature on the epistemology of disagreement considered earlier. As Christensen put it: “Fortunately, trapped though I am in my own epistemic perspective, I am perfectly capable of taking an impartial attitude toward some of my own beliefs and using the varied opinions of others as resources for my own epistemic improvement.” (Christensen, 2007, pp. 204) Feldman also emphasized the point: “...once these starting points are brought out into the open, they are every bit as open to rational scrutiny as anything else is. Once one sees that there are alternatives to a starting point one has previously preferred, either one has a reason to continue with that preference or one does not. If one does, then that reason can be voiced and its merits assessed. And the result of that assessment will be that one side in a disagreement withstands scrutiny or that suspension of judgment is called for.” (Feldman, 2006, p. 226) That is: framework/hinge propositions are just as open to critical scrutiny as everything else. When we argue, there is no free lunch; no starting point immune from critical scrutiny. We should opt for fallibilism, not Wittgensteinian ‘forms of life’ or unchallengeable ‘hinge propositions.’

11. CONCLUSION: PEER DISAGREEMENT AND DEEP DISAGREEMENT

It is well past time to conclude. How do these two issues relate? What shall we say of the relation between *peer* disagreement and *deep* disagreement? Happily we can be brief. Perhaps surprisingly, there can be no cases of *peer deep* (or *deep peer*) *disagreement*: if a disagreement is deep there will be insufficient shared evidence, background beliefs, etc. for it to count as a peer disagreement. By the same token, if a disagreement is between epistemic peers, it cannot be deep, precisely because peers will share enough to rule out depth, which (on Fogelin’s articulation of it) rests upon lack of shared beliefs and preferences. That is, for any disagreement, if it’s a peer disagreement, it’s not deep; and if it’s a deep disagreement, it’s not between peers. And in any case, there aren’t any deep disagreements as Fogelin defines them: not only are the beliefs and propositions involved in such allegedly deep disagreements open to critical scrutiny and evaluation, the Wittgensteinian views on which his account of such disagreements is based are deeply flawed.

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