

## **Animals as Stakeholders<sup>1</sup>**

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### ABSTRACT

Animals have moral status, and we have corresponding obligations to take their interests into account. I argue that Stakeholder Theory provides a moderate, yet principled way for businesses to do so. Animals ought to be treated as stakeholders given that they affect and are affected by the achievement of the objectives of the businesses in which they are involved. Stakeholder Theory therefore requires taking those interests into account. It does not, however, require that they be given the same weight as human interests. By taking the stakeholder approach, businesses can avoid merely reacting to (rapidly increasing) public outcry over the treatment of animals. Even those who hold extreme positions – that businesses have no obligations to animals, or that animal products and services are inherently immoral – can take the treatment of animals as stakeholders to provide an ethical *realpolitik* of sorts that is both better for animals and better for business.

### 1 INTRODUCTION

R. Edward Freeman opened his (1984) *Strategic Management: A Stakeholder Approach* with a story about Bob Collingwood, the president and CEO of a large multinational corporation who was inundated with meetings with, and obligations to, a wide variety of groups – legislators, consumer interests, group, and unions among others. Bob was “headed for ‘stardom’” given his ability to handle individual crises, but felt unprepared and “knew

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<sup>1</sup> This chapter grew out of discussions with Alex Howe, and I am indebted to him for many invaluable suggestions and comments.

that he needed a framework and a strategy for managing diversity and turbulence, to get out of the crisis-reaction-crisis cycle” (p. 4).

This description might feel familiar to managers whose businesses in some way make use of animals. The public have increasingly strong opinions regarding the proper treatment of animals and the overall importance of animal welfare. This trend can be observed in the increased prominence of veganism and vegetarianism, the increased concern with “ethical meat,” the continued development of new generations of meat alternatives, support for process improvements in industrial meat production, opposition to cosmetic testing on animals, and increasingly vocal opposition to animal experimentation in general. The sheer scope of this trend of increased moral concern for animals has begun to impact how businesses successfully navigate the marketplace.

These waters can feel particularly difficult to navigate given that “animal ethics” is most commonly associated with groups like People for the Ethical Treatment of Animals (PeTA), whose website bears the slogan, “Animals are not ours to eat, wear, experiment on, use for entertainment, or abuse in any other way,” and thinkers like Peter Singer, who argues that “speciesism” is on a par with racism and sexism (Singer 1975). These claims are extreme, and, while that in no way means they are wrong, it does mean that they provide little guidance for those wondering, “Can zoos be redesigned for a more ethical generation?” (Bennett 2018). The all-or-nothing approach commonly associated with “animal rights activism” is not tenable for zookeepers, farmers, and managers of pharmaceutical companies. What is needed is a *realpolitik* for animal-business relationships – a framework that is moderate, yet takes the interests of animals seriously.

Freeman’s framework for the Bob Collingwoods of the world was *Stakeholder Theory*, on which managers treat the interests of employees, customers, and other groups in the same way that they treat those of stockholders. This chapter proposes that the same framework can be applied to concerns about the interests of animals. *Prima facie*, this may seem implausible given that all archetypical stakeholder groups, such as employees are humans, and animals are, well... not. The primary work of this chapter, therefore, is that of §3, which provides a theoretical basis for looking beyond such first appearances. After this, §4 considers some details of

treating animals as stakeholders, but first, §2 reviews the basic approach to Stakeholder Theory that is our starting point.

## 2 (ETHICAL) STAKEHOLDER THEORY

### 2.1 *The stakeholder concept*

Use of ‘stakeholder’ as a term of art in business ethics stems from discussions and work at the Stanford Research Institute in 1960’s.<sup>2</sup> It was the 1980’s, however, that saw *Stakeholder Theory* develop into its current form and become a major topic of discussion. Here, Freeman’s (1984) is the *locus classicus*,<sup>3</sup> and it is his name that is most strongly associated with the approach.

As implied by its title and illustrated by the Bob Collingwood story above, Freeman presented his book as providing a strategy, a way that “executives can begin to put their corporations back on the road to success” (p. vi). However, it is important both for understanding Freeman and for our current purposes to note that Stakeholder Theory is not simply a management strategy in the pragmatic sense. Despite his initial framing and elsewhere construing Stakeholder Theory as a theory of the corporation (Freeman, 2014), Freeman has been clear that the motivation for its development was an ethical one. The problem, as Freeman later put it, was the prevalence of “the separation fallacy,” on which “sentences such as ‘x is a business decision’ have no ethical content or any implicit ethical point of view” (Freeman, et al. 2010, p. 6). This is surely not the case. Even apart from any moral obligation to obey the law, it would obviously be immoral for Coca-Cola to revert to a formula including cocaine given our knowledge of how harmful such a decision would be. While many business decisions do not have such extreme and obvious ethical components, most have some such, at least in virtue of their potential to harm or benefit.

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<sup>2</sup> A 1963 internal memorandum is usually cited as the first use. Jeffrey S. Harrison reports finding a use in (Silbert 1952), but it was not the source of later uses (Freeman, et al. 2010, p. 31, n. 3).

<sup>3</sup> Initial statements were given independently the year before in (Mitroff 1983) and (Freeman & Reed 1983).

To understand why Freeman developed the Stakeholder Theory in response to this problem, it is helpful to look at the context in which the separation fallacy thrived. That context is perhaps best captured by Milton Friedman's (in)famous 1970 article, "The Social Responsibility of Business is to Increase Its Profits" (Friedman 1970). There, Friedman argued for the titular thesis and against the idea that the managers of businesses have moral obligations to consumers, employees, or any other groups beyond their shareholders. Why think that managers do not have such obligations when making business decisions? Friedman gave several arguments, but at the foundation was the idea that a corporation is owned by its shareholders and that the managers of that corporation are their agents. As agents of the shareholders, managers are obligated to act in their interests, not those of society at large.<sup>4</sup> The interest that unifies shareholders is return on investment (at least if it is a for-profit corporation), and this means that managers have an obligation to pursue profit. Given that we only tend to view as ethical considerations those that are not directly self-interested, Friedman's argument leads straightforwardly to the separation fallacy.

While Friedman's view has some *prima facie* plausibility, his description of the nature of corporations is on shaky ground. Shareholders do not own a corporation in the way that Mom and Pop own the General Store. What they own are shares that entitle them to dividends and give them certain rights (e.g. voting rights). The shareholder-manager employment relationship therefore isn't exactly like that of Mom and Pop to the clerk that they have hired. Neither is it a legal principal-agent relationship. Managers do have the legal obligations of a fiduciary, but these are weaker than those of an agent, permitting the sorts of pro-social activities Friedman rejects. In fact, as Freeman (2014) points out, obligations to several non-shareholder groups have been formalized by developments in corporate law, such as the doctrine of strict liability and the National Labor Relations Act. These developments impose legal obligations in tension with Friedman's picture of the managerial role, but Freeman also argues that they indicate a societal understanding of the nature and purpose of business on which it is not an

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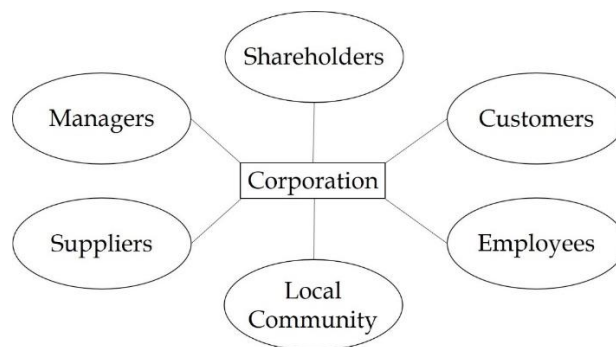
<sup>4</sup> Though Friedman does say that managers have to follow the "rules of the game," primarily abiding by the law and dealing honestly.

entity to be run solely for the benefit of shareholders. He contends that the stakeholder concept is extremely helpful for identifying these broader obligations.

With this background, it is unsurprising that one of the earliest understandings of the stakeholder concept was as a generalization from the notion of shareholders. There is universal agreement that managers do have significant obligations to shareholders. Why? Because the ownership of shares means that shareholders have a financial stake in the success of the firm. However, there are other groups of people who have a stake in the activities of a business as well – both financial and otherwise. Shareholding is therefore merely a particular type of stake-holding. Once we have dismissed the idea that the shareholders' stakes given them more or less absolute rights of ownership, then, by parity of reasoning, managers have obligations to other stakeholders as well when deciding how to run the firm.

## 2.2 Basics of the stakeholder theory

Who, then, is a stakeholder? We will look at specific proposals for stakeholder identification below. For now, we can note that the number and nature of stakeholder groups will vary depending on the nature of the organization, with a few groups generally agreed to be archetypical. In a diagram used to illustrate the basic stakeholder idea, Freeman identifies six groups – shareholders, customers, employees, the local community, suppliers, and the managers themselves.<sup>5</sup>



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<sup>5</sup> Adapted from (Freeman, 2014).

Regardless of whether stakeholder theory perfectly captures the fundamental structure of corporations, it seems to do a good job of capturing the sorts of corporate relationships that determine the variety of obligations had by corporate managers in running the firm. Given that employees, suppliers, and others are vital to the corporation and have a vested interest in its activities, managers are obligated to take those interests into account when determining what those activities will be. Of course, those interests will sometimes conflict, but when they do the interests of no group (including the shareholders) automatically trump the interests of any other.

This general approach of balancing identifiable interests is important for our purposes because it provides a decidedly non-radical framework for ethical decision-making in business. One way to see this is to note that it is compatible the “shareholder primacy norm,” on which managers’ fiduciary duty to act in the financial interests of the shareholders is very strong. Doing so, even in a manner that gives greater weight to these shareholder interests than to others, will only conflict with the stakeholder approach if one interprets the shareholder rights as overriding, rendering financial obligation to shareholders the *sole* duty of managers.

This last point brings out an important feature of stakeholder theory. It does not, in and of itself, provide a strict decision procedure for corporate governance. Application of the theory requires it to be supplemented by balancing principles – what Freeman calls a “normative core” (Freeman, 2014). Shareholder primacy is one such principle, but there are many other options as well. For instance, Freeman mentions the possibility of taking a Rawlsian approach on which one strives for equality of stakeholder interest satisfaction, and requires that inequalities benefit the group that is least well off.

Stakeholder theory’s incompleteness is actually an advantage with respect to providing a non-radical approach to ethical decision making, especially when it comes to controversial topics like animal ethics. As noted above, the extremely strong normative commitments of folks like Singer and the members of PeTA are simply non-starters for many businesses. Similar problems can arise with respect to more traditional stakeholder groups as well, but on stakeholder theory, so long as a manager recognizes

the nature of stakeholder relationships and interest-obligations, they can look to their own or common societal ethical commitments to provide balancing principles. Assuming these are reasonable, the result will be a reasonable decision-making framework whose ethical guidance the manager will be willing to accept.

### *2.3 Stakeholder theory at work: An example*

SC Johnson provided a good example of stakeholder-based decision making in 2004 when they decided to change the formula for their food storage film Saran Wrap. At the time, Saran Wrap held an 18% market share due to superiority over competitors with respect to microwavability and providing an odor barrier. These advantages were conferred by polyvinylidene chloride (PVDC), which is at least somewhat chemically related to polyvinyl chloride (PVC). When concerns arose about the safety and environmental impact of PVC, SC Johnson reevaluated their use of PVDC as well. Despite the fact that PVDC did not pose as significant a threat as PVC and was not as liable to future ban or regulation, the company decided to remove the chemical. With it went Saran Wrap's competitive advantage and over a third of its market share.

Given this not-insignificant reduction in profit, it is clear that changing the Saran Wrap formula was not in the financial interests of the SC Johnson shareholders. In a 2015 *Harvard Business Review* article, CEO Fisk Johnson explained the basis for the company's decision to nevertheless remove PVDC.

Although most decisions are a matter of trade-offs and evolving priorities, one priority doesn't change for us: acting in the best interests of our customers... we go out of our way to act with care. When it comes to the safety of our ingredients, we prefer to err on the side of caution. (Johnson 2015)

While he doesn't talk in terms of stakeholders, it is easy to translate Johnson's comments into those terms. When it came time to decide what action to take with respect to PVDC, the health and safety interests of the customer stakeholder group were deemed to outweigh the financial interests

of the shareholder stakeholder group. Importantly, this is not because the latter are thrown out the window. SC Johnson does not pull every chemical about which there is any remote safety concern, and even in the case of PVDC the company held off for a year while attempting (unsuccessfully, it turned out) to develop a safer alternative with the same properties. Rather, “when it comes to the safety of our ingredients, we prefer to err on the side of caution” can be read as a basic balancing principle: *Treat customer safety as significantly weightier than financial concerns*. That is a fairly specific principle, but it is given while discussing a specific case. A more general principle in the same spirit might be: *Physical health and safety concerns are significantly weightier than financial concerns*. Such a principle would also help guide the balancing of employee-shareholder interests in cases where significant improvements to production machinery would improve worker safety, and of customer-employee interests when deciding whether to lower the price of a product by having employees work overtime to increase supply.

### 3 PARTICIPATING ANIMALS AS FULL STAKEHOLDERS

#### 3.1 *Clarifying the question*

The promise of Stakeholder Theory as a moderate-but-principled decision-making framework can be seen in the extensive literature that has developed around it in the last 35 years. However, in all that literature the approach has never been applied to animal interests. Presumably this is because animals cannot express their interests and voluntarily participate in business relationships the way that the humans of traditional stakeholder groups can. True, the relationship of a dairy farm to its cows differs greatly from SC Johnson’s relationship to its customers. But are those differences relevant to stakeholdership? That is the central question of this section. Or, more generally, it is whether on the stakeholder approach there is a theoretical basis for treating animals as stakeholders. Two clarifications of this question are in order.

First, we are asking about the animals themselves. On any application of Stakeholder Theory a poultry producer has an obligation to minimize disease among its chickens. On current construals, however, this in fact an



obligation to human stakeholder groups—the customers who might get sick, the stockholders whose shares might lose value due to negative publicity, etc. What concerns us is whether the chickens constitute a separate stakeholder group such that the company has a direct obligation *to them* to minimize disease.

The second clarification is that we are focused on what we can call *participating animals*. These are animals that bear a direct relation to a company's production of goods or services. In addition to the chickens above, these include, for instance, the mice of a research laboratory, cheetahs of a zoo, and cows of a dairy farm. The pollution produced by an automobile factory might have significant effects on animals wild and domestic, near and far. However, these animals play no role in its production of vehicles, and we need take no position on whether they are part of a distinct stakeholder group or their interests incorporated into those of, say, the local community.

Thus clarified, our central question is: *Is there a theoretical basis for treating the participating animals of an organization as an independent stakeholder group of that organization?* While theorists have not addressed this question directly, they have addressed the question of *stakeholder identification* more generally—*who counts and on what basis?* The Saran Wrap case above was fairly straightforward in that it concerned archetypical stakeholders, but managers must often contend with other groups whose status is not so clear, including activists, governments, and the media. Let's consider some prominent answers to this general question before considering their application to non-humans in general, and participating animals in particular.

### 3.2 *Two-tiered identification and full stakeholders*

Even two decades ago, Ronald Mitchell, et al. were able to identify over two dozen glosses or definitions on 'stakeholder' extant, with six distinct rationales (1997, pp. 858, 60-61). However, the two primary themes among these were already captured by Freeman and Reed's initial article in their distinction between the *wide* and *narrow* senses of 'stakeholder'. Here is how they define each (1983, p. 91).

*The Wide Sense of Stakeholder:* Any identifiable group or individual who can affect the achievement of an organization's objectives or who is affected by achievement of the organization's objectives.

*The Narrow Sense of Stakeholder:* Any identifiable group or individual on which the organization is dependent for its continued survival.

Freeman and Reed's wide definition has two aspects. The candidate group (we can treat individuals as "groups" of one) must be *identifiable* and *connected* (causally) to the achievement of the organization's goals. The connection requirement is straightforward. An isolated indigenous people group in the Amazon is not a stakeholder in Uber since if, say, Uber has the objective of expanding to the 1,000 most populous U.S. cities, their success will neither affect nor be affected by the indigenous Amazonians. This clarity can help in disambiguating "identifiable" – this requirement should be seen as a qualification on the group's causal connection. The collection of Uber's potential customers whose social security number ends in 42 constitutes an "identifiable" group in some sense, but surely not in the *right* sense. Wide-stakeholder groups must be "identifiable" in that their members share some property that determines *how* they are connected to achievement of the organizational goals.

The wide definition carves out an important concept – a fundamental feature of the firm-shareholder relationship is that each significantly affects the other, so this ought to be true of stakeholders as well. However, causal connection is too permissive a criterion to be very helpful. Any corporation that emits carbon has at least some effect on every living thing, but it is not the case that all God's creatures got shareholder-analogous relationships with that corporation. The narrow definition, naturally enough, narrows down stakeholders, and it does this by requiring a high level of significance for the causal connection. Namely, it must be so significant that if it were absent or strongly negative, the organization would not survive.<sup>6</sup>

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<sup>6</sup> Presumably, would not survive *in its present form* – customers would still be narrow stakeholders of a dairy farm even if, on losing them, the farm could convert to producing beef instead.

Such two-tiered approaches are extremely common. For instance, Max Clarkson (1995) all but exactly mirrors Freeman and Reed's narrow/wide classification in distinguishing *primary* and *secondary* stakeholders. Employees, customers, suppliers, etc. are primary stakeholders because without their "continuing participation the corporation cannot survive as a going concern" (p. 106). In addition (as we shall see), even some more complex approaches to stakeholderhood yield a similar distinction. One worry here is that the definitions of wide/secondary stakeholders are so inclusive as to threaten the usefulness of Stakeholder Theory as a practical framework. It's not clear that our obligations to those who can affect or be affected by us are anything less than our ethical obligations *simpliciter*. It is therefore an important clarification of our central question that it concerns stakeholderhood of the top-tier. At the risk of over-multiplying terminology, we can say that when a stakeholder group bears the sort of relationship to the firm that carries with it the sorts of obligations had toward the archetypical stakeholder groups they are *full stakeholders*, and note that this is the sort of stakeholderhood at issue in our central question.

### 3.3 *The Primary Challenge to non-human stakeholders*

On standard two-tiered approaches it is easy to make the case for taking participating animals to be full stakeholders. Consider our milk cows again. If they ceased producing usable milk, then obviously the dairy farm would not survive. Furthermore, this connection to the farm's success is due to a property – producing the raw product – that clearly identifies the cows as a distinct group.

Why, then, have participating animals not been treated as stakeholders when they clearly meet the criteria above? Since they have not even been considered as candidates there is no literature that directly addresses the question. However, there is a literature on a different potential non-human stakeholder. In his (1995) article, Mark Starik asked the same question about *the natural environment*. Two aspects of his answer to why it had not been considered a stakeholder apply to animals as well. One concerns

human advocacy, and the other concerns the focus and framing of Stakeholder Theory.<sup>7</sup>

The human advocacy part of the answer is that non-human interests are captured indirectly through the human stakeholders who take those interests on as part of their own. If customers demand that businesses respect the environment, then there seems to be no need to consider the environment *per se* as a separate stakeholder.

This is clearly insufficient on its own to show that the environment should not be considered a stakeholder. Customers also advocate for employees when they boycott companies that use child labor, but this obviously does not mean that we should not take there to be an independent employee stakeholder group. Yet Starik's response is also insufficient on its own to establish the environment as a stakeholder. He correctly points out that greater changes are needed than those thus far achieved *via* human advocacy. But this observation is just as compatible with a call for better advocacy or increased corporate responsiveness to it as it is with a call for something (stakeholdership) beyond advocacy.

The second part of the answer given by Starik is that Stakeholder Theory design and discussion is focused on humans.<sup>8</sup> As noted in §2, Stakeholder Theory is often connected to the notion of Corporate Social Responsibility. If it is social in nature, then presumably it concerns only humans. This focus is surely reinforced by the simple fact that much of our ethical deliberation, and certainly the majority of corporate deliberation, concerns interpersonal relationships. This framing and focus results in something like an implicit "Condition." A group must be composed of members of society for a dependency relationship (or what have you) to place them in the stakeholder category.

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<sup>7</sup> Not only is "*The exclusion of non-human nature from the business environment*" not relevant to our discussion of animal stakeholdership, but it is odd that Starik includes it at all. Plausibly, if it is part of the business environment, the natural environment would be *excluded* from stakeholdership. The business environment is the context in which business occurs—the playing field rather than a separate player.

<sup>8</sup> Here we convert, "*'Stakeholder' status has been restricted to humans only,*" to a reason for withholding stakeholder status by combining it with "*The 'stakeholder' idea has been exclusively a political-economic concept*" (1995, pp. 207-209).

We needn't get into the details of Starik's response to this consideration, however, his identification of this issue is important, as it points to what seems to be the primary challenge to conferring stakeholder status on non-humans, including participating animals: they lack the agency or ability necessary to participate in the stakeholder relationship in the way that humans can and do. Stakeholder Theory was developed from analogies to intentional actors: a gambler *puts up* a stake; a stockholder *invests* in a company. Likewise, a supplier *signs* a contract, an employee *earns* a wage, and a customer *buys* a product. In performing these acts, stakeholders exhibit agency. When cows *are milked*, chickens *are butchered*, and cheetahs *are displayed*, these acts are not intentional, and the animals do not thereby exhibit agency.

Here is the challenge in argument form.

PRIMARY CHALLENGE

- (1) A group is a candidate stakeholder of an organization only if its members' participation in their relationship with that organization is intentional
- (2) No non-human entities participate in their relationship with an organization intentionally
- (3) Therefore, no non-human entities can be stakeholders in any organization

The Primary Challenge is deductively valid, so if we are to resist the conclusion, we must find fault with one or more premises. There is a plausible reading of (2) on which it is certainly correct. One of the best candidates for a counterexample would be the capuchins that were the subjects of research by the Yale economist Keith Chen.<sup>9</sup> These monkeys were taught to use money by being allowed to exchange metal discs for foods that they liked to differing degrees and, later, choosing whether to gamble with their discs. (Infamously, after one threw an entire tray of discs into the testing chamber, the monkeys were observed exchanging "money" for sex.) In making decisions about what to do with their discs, Chen's capuchins

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<sup>9</sup> Stephen J. Dubner and Steven D. Levitt reported on Chen's research in the *New York Times* (2005).

actively participated in his research, but they did not do so intentionally. The monkeys did not have the capacity to understand that their decision making was part of an experiment. So, while they intentionally chose to make purchases or gambles, they did not intentionally *participate* in the research.

Given that something similar will be true of all non-human animals, (2) seems secure. The crucial premise then, and the one that we should reject, is (1), which makes intentional participation a requirement on stakeholder candidacy. Call this the *Agency Condition*.

There is a quick objection to (1). If we are thinking of Stakeholder Theory simply as a *prudential* decision-making framework, then perhaps the Agency Condition is plausible. But we are focused on Stakeholder Theory as an *ethical* framework. Our ethical concerns extend beyond our obligations to those with whom we have intentional interaction as equals. We have, therefore, some reason to reject that condition.

This objection is far from decisive. The reason given, while significant, is only *prima facie*. Ethical Stakeholder Theory is not a full-fledged normative ethical system, meant to capture all moral considerations. It is a *practical* ethic, meant to provide moral guidance of a particular sort for business practices. It is not implausible that this practical nature of Stakeholder Theory could support the Agency Condition. That it does is made more plausible by the fact that the condition makes explicit an intuition likely to be widely shared, even among those who take businesses to have serious ethical obligations to animals or the environment. If the condition is to stand, however, it needs some further theoretical basis. We now turn to two accounts that potentially provide such grounding.

#### 3.4 *Stakeholder Power and the Agency Condition*

Ronald Mitchell, Bradley Agle, and Donna Wood (1997) propose a somewhat complex account of stakeholderhood on which there are seven distinct classes of stakeholders rather than two. These are derived from the possible combinations of three stakeholder attributes (pp. 865-867).

*Power*: "a party to a relationship has power, to the extent that it has or can gain access to... means, to impose its will in the relationship"

*Legitimacy*: “loosely [refers] to socially accepted and expected structures or behaviors”

*Urgency*: determined by “(1) time sensitivity..., and (2) criticality – the importance of the claim or the relationship to the stakeholder”

Mitchell, et al. identify their theory as one of both stakeholder identification and *salience* – “The degree to which managers give priority to competing stakeholder claims” (p. 869). Our present concern is only with the former, so we need not detail all seven of their stakeholder classes. What we want are those who are full stakeholders. Possibly this is only “Definitive Stakeholders” – those with all three attributes. However, because Urgency is primarily related to salience, we will take those with only Power and Legitimacy (“Dominant Stakeholders”) to be full stakeholders as well. Given our focus on *ethical* stakeholder theory, we are only interested in groups with legitimate ethical claims.

Our simplifications yield a sort of *ad hoc*-two-tiered account where all stakeholders have Legitimacy, but only those with Power are full stakeholders. However, it does not judge non-humans to be full stakeholders, unlike the two-tiered accounts above. This is because the Power requirement supports the Agency Condition, given the authors’ explication of that attribute as concerning the ability to *impose one’s will* in a relationship. On a natural understanding, imposing one’s will requires that one act with the intention to bring about what one wills to be the case. Thus, agency is required for Power, which is in turn required for full stakeholdership, and non-humans are excluded.<sup>10</sup>

### 3.5 *Against the Power requirement*

Mitchell, et al. obviously do not employ the notion of full stakeholdership and it is far from clear that they would endorse the above reasoning even if they took that notion and our simplifications on board. However, what

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<sup>10</sup> In their original taxonomy, Mitchell, et al. classify the natural environment as a “Dependent Stakeholder,” as it does not have Power itself, but relies on the advocacy of humans.

matters for our purposes is that their machinery could be appealed to as a ground for the Agency Condition as in the manner suggested.

It could be, but should not be. Child labor provides a potent counter-example to the idea of Power as a requirement for full stakeholdership. Children working in clothing factories have no Power, but they nevertheless constitute an archetypical stakeholder group: employees. Such cases are multiplied by the strong notion of Power as the ability to impose one's will. Take employees who are unable to unionize, or customers deprived of options by competition avoidance. Their circumstances often create power imbalances so great as to make it, for all intents and purposes, impossible to impose their will on the corporation.

A primary feature of ethical Stakeholder Theory is that it provides a framework on which ethical obligations are not ignored, even when the relevant group cannot effectively demand that those obligations be met. So, even though Power is certainly an important contributor to salience, it is not relevant to stakeholder identification, and it therefore does not support the Agency Condition.

### 3.6 *Rawlsian fairness and the agency condition*

The above response to the Power proposal indicates that the Agency Condition would require a normative grounding. It must be that intentional participation is necessary for a relationship to carry the practical ethical obligations of Stakeholder Theory. Such a ground is provided by Robert Phillips and Joel Reichart in their arguments against environmental stakeholdership (2000). Their rejection of Starik's environmental stakeholder proposal, discussed above, is along lines that we have suggested. They argue that, as a practical ethic, Stakeholder Theory is not meant to address all normative considerations, so what is needed (but not provided by Starik) is an account of stakeholder identification that determines which considerations fall under its scope. Here they endorse a Rawlsian fairness-based approach previously developed by Phillips (1997).

We can (roughly) put Phillips' account in the language we have been using as follows. The normative core of the account says that managers must deal fairly in discharging their moral obligations to the firm's various



stakeholders. The notion of obligation in play is a technical one, and its details constrain the sort of relationships that determine whether a group is a stakeholder (and therefore a full stakeholder).<sup>11</sup> The relevant features are that an obligation is owed by a specific person(s) to a specific person(s) in virtue of some voluntary act or omission (2000, p. 186).

Phillips and Reichart are explicit that their use of 'person' excludes non-humans. But the account would provide a theoretical basis for the Agency Condition even if we ignored this, as acts that are voluntary are, *a fortiori*, intentional. Non-humans cannot voluntarily, intentionally accept benefits and cooperate in the ways that Phillips and Reichart argue generate a specific obligation for businesses for the same reasons that Chen's capuchins could not voluntarily, intentionally participate in his research. The relevant normative notion of fairness therefore provides a grounding for the Agency Condition, and neither the environment nor participating animals can be candidate stakeholders.

### 3.7 (Partially) against the Rawlsian fairness approach

One worry for Phillips and Reichart's fairness approach is that the voluntariness requirement faces the same problems as did the Power requirement above. Child laborers are no more voluntary in their relationship with their employers than they are able to impose their will in that relationship, despite being archetypical stakeholders. It is perhaps unsurprising that Phillips and Reichart's account faces a difficulty along these lines, given that one challenge to Rawls' general account of justice is that it is an idealized theory, and as such, it is not clear that it can be straightforwardly applied to "the real world." One might object that Rawls' theory concerns justice *per se* and how to achieve real-world justice is a separate question, but this response is not available to Phillips and Reichart. The flipside of their reply to Starik that Stakeholder Theory is not a general normative

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<sup>11</sup> On Phillips' original presentation, his account is two-tiered, distinguishing between stakeholders who have *normative legitimacy* and those who have *derivative legitimacy* (1997, pp. 124-130). (Phillips & Reichart 2000) forgoes this distinction, and it is not particularly relevant for our purposes given that it is the normative legitimacy groups we would count as full stakeholders and it is just these groups to whom the Rawlsian fairness considerations apply on the account.

ethic is that as a practical ethic it must be applicable to the world as it currently is.

One move that is open to Phillips and Reichart is to take it that Rawlsian fairness considerations apply directly in proper stakeholder relationships, but in deviant ones the considerations are counterfactual. In other words, managers of a clothing company ought to take into consideration obligations that would be generated by their child laborers if it were the case that the voluntariness condition were met.<sup>12</sup>

Presumably such obligations would still apply only to *persons*, not to non-humans. However, if we abandon a strictly Rawlsian normative core, then it is not clear that there is a strong basis for maintaining the personhood requirement. Indeed, the counterfactual approach gives us a principled way to abandon it. We can ask what obligations would be incurred were relationships with the relevant non-humans to support the right kind of obligations.<sup>13</sup>

This approach has, I think, a significant benefit. One of the primary advantages of Stakeholder Theory is compatibility with a variety of normative cores, but Phillips and Reichart's original Rawlsian core constrained the sorts of groups that are candidates for stakeholdership. The extended counterfactual version, on the other hand, allows for a normative core that is still based on at least a Rawls-inspired notion of fairness without dictating constraints on stakeholdership.

### 3.8 *The Operational Patient Condition*

We have been looking for a proper theoretical grounding for the Agency Condition. Since we are concerned with ethical Stakeholder Theory, such a grounding would have to be ethical in nature. This eliminates one class of proposals—those such as the Power condition that are based on decision-specific concerns like salience. The condition cannot have the ethical grounds of a rejection of the moral relevance of animals, since—in addition

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<sup>12</sup> Indeed, such a move might fit well with the general Rawlsian idea of advancement in justice by approximation of the idealized picture presented.

<sup>13</sup> Technically, this question is likely to concern a *counterpossible* conditional. This does not make a relevant difference, however, since we routinely reason with counterpossibles, and in the same way we reason with standard counterfactuals.

to being highly controversial, the nature of our project assumes that animals are morally relevant. A natural place to look for an ethical grounding would be in a normative core. As we saw with the Rawlsian fairness approach, however, this means giving up on a major contributor to the practicality of the ethics of Stakeholder Theory, compatibility with a variety of (reasonable) normative commitments.

The reason for our theoretical grounding search was that intentional participation is *prima facie* irrelevant to an ethical theory. Finding none, we reject the Agency Condition and the Primary Challenge of which it was a premise. This does not automatically mean that participating animals, wildlife, or the environment count as stakeholders though. Critics are correct that, as stated, traditional two-tiered theories are insufficient. Suppose that some of the factories of Futuron, Inc. rely on complex, autonomous robots that (we can stipulate) lack sentience. These robots constitute an identifiable group on whom the business depends, yet, intuitively, they are not stakeholders. Traditional theories have left things at this intuitive level, but in evaluating contentious cases, we need an explicit Condition that tells us why such a business has an employee stakeholder group, but not a robot stakeholder group. More precisely, ethical Stakeholder Theory needs an ethical Condition.

The broadest condition that will do the job simply distinguishes the ethical realm from the non-ethical. Call it the *Moral Relevance Condition*. Suppose that the managers of Futuron are considering whether to move one of their factories to a state with lower taxes. The moral considerations (including any beyond stakeholder obligations) are the same whether the factory in question does or does not have robots. The robots are morally irrelevant, and thus are not candidates for stakeholdership.

The Moral Relevance Condition is *too* broad, however. On at least some moral theories, many objects are morally relevant in virtue of having intrinsic value. Beauty and historical importance are commonly cited sources for such value. But while Rembrandt drawings and Parthenon marble may be morally relevant, they are no more stakeholders in the British Museum than our robots are stakeholders in Futuron.

For a narrower condition, we might take a cue from earlier discussion in which we have sometimes said that Stakeholder Theory involves

balancing stakeholder *interests*. Taken as a commitment (rather than a convenient turn of phrase), such statements imply a *Morally Relevant Interests Condition*. Such a condition would admit archetypical stakeholder groups, while excluding robots, Rembrandts, and ruins, none of which have interests of any sort.

The Morally Relevant Interests Condition is an improvement on the Moral Relevance Condition, but one problem it faces is that it is less neutral than is desirable. While reference to interests does not entail any particular normative core, it is at least in tension with those that are not consequentialist.

A more neutral possibility comes by way of a contrast with the notion of agency with which we began: *moral patiency*. A *Moral Patiency Condition* would maintain the benefits of the Morally Relevant Interests Condition, while improving on neutrality. Unfortunately, both conditions face the further problem that they are too inclusive. Consider a hacker collective that decides to hold a tech startup hostage by threatening to release proprietary information. If they do so, the startup will lose its competitive advantage and be driven out of business by larger, more established corporations. The hackers are moral patients, but they are surely not full stakeholders in the startup. The startup may depend on the collective for their continued existence, but not, it seems, in the right way.

What is the right way? It is tempting to return to something like the voluntariness requirement of the fairness approach, since the startup was forced into their dependency relationship with the hackers. However, we have seen that, for example, some relevant employee-firm relationships are non-voluntary. The difference between such employee-firm relationships and that of the hackers to the startup is that the former is a *business* relationship. Having employees is a normal, necessary part of being a tech startup; being held hostage by hackers is not.

With this last distinction we have arrived at what I take to be a robust positive proposal: the *Operational Patient Condition*.

#### OPERATIONAL PATIENT CONDITION

A group is a candidate stakeholder of an organization only if its members are moral patients and their relationship to the organization is part of the normal course of its operations.

“Relationship” here should be construed broadly. Futuron has a relationship with its robots. In fact, that relationship is part of the normal operations of Futuron, since those include the operation of factories that rely on the robots. However, the robots are not moral patients, and they are therefore not stakeholders in Futuron. This moral patiency requirement also means that Rembrandts, ruins, and other “merely” intrinsically valuable objects do not count as stakeholders. Our hacker collective meets this requirement, but are excluded from stakeholdership because their relationship to the tech startup is not part of that business’ normal operations. In contrast, all of our archetypical stakeholders “count.” Shareholders, managers, suppliers, employees, local communities, and customers are all moral patients, and all of their relationships with a firm are part of normal business operations.

The Operational Patient Condition, then, captures the intuitive data at least as well as the Agency Condition. But, unlike the latter, it has a clear theoretical basis. The moral patiency requirement captures the ethical nature of ethical Stakeholder Theory, and does so in a way that is broad enough to maintain normative neutrality. The normal operations requirement, on the other hand, captures the *practical* ethical nature of ethical Stakeholder Theory. That theory was developed to provide an ethical framework for business decisions, and therefore it is entirely appropriate that stakeholdership should be reserved for those groups who are normally relevant to such decisions.<sup>14</sup>

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<sup>14</sup> “Normal” should not be taken to imply “frequent.” The problem with the hacker-startup relationship is its nature, not its rarity.

### 3.8 *Participating animals as full stakeholders*

Making explicit the features we have discussed, and using the language from Freeman and Reed's particular two-tiered approach, yields the following full stakeholder definition.

#### FULL STAKEHOLDER

Group G is a full stakeholder of organization O just when G comprises moral patients who share a relation to O such that in the normal course of its operations O depends on G for its continued survival in virtue of that relation

On this account of stakeholder identification, some participating animals are indeed full stakeholders. Consider Chen's capuchins again. They are identifiable as a group in virtue of a specific relationship to the organization in question – they are the lab's research subjects. We cannot, morally speaking, do whatever we please to monkeys, so the members of this identifiable group are moral patients. Obviously, without research subjects there would be no research lab, so the organization depends on the capuchins for its survival. And, finally, this dependency relationship between subject and researcher is part of the normal course of operations for the lab.

The capuchins are not a special case, since the same sorts of considerations apply to a wide variety of participating animals. There are some borderline cases, to be sure. While the denizens of a zoo's primate house are full stakeholders in the zoo, it is not certain that the same can be said for fish in its aquarium given that their moral patiency is up for debate. It is sufficient for our purposes, however, that on Stakeholder Theory some animals count. This means that when zookeepers, heads of research labs, or CEO's of leather goods companies make organizational decisions, they must take into account their obligations to participating animals alongside those owed to their employees, customers, and shareholders. The next section considers what this might look like, and how it might fulfill the promise of a moderate approach to animal ethics in business.

4.1      *The general upshot and a metaphor*

While compatibility with a range of normative cores has been touted above as an advantage of Stakeholder Theory, one might worry that it also undermines the theory's ability to provide practical guidance. We have seen that on a highly plausible construal of stakeholderhood some animals are stakeholders in some organizations, but what exactly does this mean for the managers of such organizations?

As a start, we can say that it means that they are obligated to take into account the interests of animals alongside those of shareholders, customers, and other stakeholder groups in their decision-making. This upshot is general indeed, but its importance should not be underestimated. The general stakeholder approach that has been taken up by managers and corporations, not only theoreticians. This is evident in the ubiquity of stakeholder language in mission and vision statements, and Freeman, et al. give *scenario planning* and *generation of strategic alternatives* as two further areas of management that have been strongly influenced (2010, pp. 106-108). While Freeman (1984), Harrison and St. John (1994), and others have offered specific, stakeholder-based management tools, it is doubtful that these detailed proposals are primarily responsible for corporate uptake. On its own, the shift from seeing employees, suppliers, etc. as subjects of a shareholder king to members of a stakeholder family was a significant development. This history bodes well for a similar shift from seeing participating animals as rented mules to beloved pets.

This *pet* metaphor is chosen deliberately. It isn't within the scope of this chapter to develop animal-specific addenda to the stakeholder management tools of Freeman or Harrison and St. John (nor would there be space to do so). We can, however, identify at least a few specific details of animal stakeholder management beyond general consideration of interests, and the metaphor is helpful in doing so. Pets are participating animals in the organizations of our families. Their participation is non-voluntarily; we adopt them for our own purposes, which they never understand, much less intend to fulfill. When we do so, we take on certain obligations toward them – we are morally required to consider their interests. What does that look like?

#### 4.2 *Obligation to investigate interests*

At the most fundamental level, this looks like providing basic care. This includes the obvious redirection of financial resources from other family interests such as home projects to purchase food. But the obligation to care for our pets goes beyond avoiding negligence and abuse. The moral requirement to consider their interests carries with it the obligation to be informed as to what those interests are. At the very least, this is so for those who are aware that animals have interests beyond basic appetites and have the ability to learn about what those interests are.

These criteria are certainly met by the managers of businesses with participating animals, and they therefore have an obligation to be informed about the interests of those animals. This may seem an obvious point, but it is particularly worth making given the emphasis in the stakeholder literatures (and management literature more broadly) on two-way relationships. This emphasis might lead one to suppose that animals cannot be stakeholders since they cannot participate in the communication required for such relationships. However, within the context of Stakeholder Theory, the primary function of such two-way interactions is the communication of stakeholder interests to decision-makers. It is sufficient for animal stakeholderhood that animals do have morally relevant interests, and that those can be discovered.

Indeed, a good deal has already been discovered about the interests of participating animals. Perhaps the most well-known example is the work of Temple Grandin, who has identified multiple aspects of livestock handling that significantly affect behavior.<sup>15</sup> The adoption by beef plants of her double rail system for restraining cattle for stunning is a clear illustration that one need not be an animal rights activist to take seriously the interests of animals.<sup>16</sup> Treating animals as stakeholders codifies the role of those interests in business and clarifies the obligation to seek out the work of those like Grandin who identify those interests and how they can be promoted.

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<sup>15</sup> E.g. (Grandin 1980) and (Grandin 1997).

<sup>16</sup> See (Grandin 2003), as well as her initial description in (Grandin 1988).



### 4.3 Interactions with other stakeholder interests

Grandin's work is also an example of how, as with other stakeholder groups, considering animal interests can be good for business. Were this always and obviously the case, then there would be little need for Stakeholder Theory in the first place. Unfortunately, it is not, either in general or with respect to animals in particular. Let's call on our pet metaphor again to think about the relationship of animals and other stakeholders. First, to note what animal stakeholdership does not imply.

At least in the West, pets are routinely talked of as members of the family, and we often go to great lengths in caring for them, even sacrificing significant interests of the human family members if the need arises. Nevertheless, there are limits. Certainly, we would find it perverse to delay non-emergency medical treatment for a parent in favor of veterinary care, and most of us would not consider providing even toys for a dog over a daughter. Treating animals as stakeholders needn't (and most often won't) mean giving their interests the same status as those of human stakeholder groups anymore than adopting a pet means giving it the status of an adopted child. This is not the theoretical departure it might initially seem. Recall that we have already seen that Stakeholder Theory does not require treating all stakeholder groups the same. As noted in §2, the approach is compatible with the doctrine of shareholder primacy, and it is also perfectly compatible with respecting animals as moral patients to treat their interests as less morally weighty than those of humans.<sup>17</sup>

Still, animal interests matter, and an important feature of animal stakeholdership is that their interests matter *independently* of the interests of human stakeholder groups. Suppose that a family is deciding between taking a camping trip or a vacation at a theme park. Camping will allow the family's dog Otis to remain with the family and enjoy a host of new experiences whereas the theme park will mean a weak of (very mild) distress from kenneling. The family ought to consider Otis' interests, and therefore, *ceteris*

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<sup>17</sup> Of course, Stakeholder Theory does not require such differential treatment either. However, it is unlikely that the Peter Singers of the world will find themselves directing companies with many participating animals.

*paribus*, ought to choose camping.<sup>18</sup> This is true even if part of the reason that Mother wants to go camping is for Otis' sake. The interests of Otis and Mother are reinforcing, not redundant.

In the same way, the interests of animal stakeholders are not redundant to animal-directed interests of consumers. Independent consideration of stakeholder groups means that businesses have *more* reason to respond to customer concerns related to participating animals than they do many others.<sup>19</sup> This point is particularly worth emphasizing given the tendency in the stakeholder literature (including this chapter) to appeal to the financial benefits of the stakeholder approach. Too great a focus on these can give the impression that the market can be relied on to indicate when stakeholders' interests have been appropriately taken into account. Suppose that consumers express worries about the size and arrangement of cages for chickens at a poultry plant. It might be that minor improvements are sufficient to maximize profits by mollifying those concerns enough to prevent consumer defection without greatly increasing poultry prices. These minor changes may nevertheless be ethically insufficient given that improvements are in the interests of multiple stakeholder groups, not the customers only.

#### 4.4 *A special case: forbidden stakeholders*

Treating animals as stakeholders requires taking their interests into account independent of their alignment with the interests of other stakeholder groups. This does not require ignoring conflicting interests of human stakeholder groups or even treating the interests of animal stakeholders as equally weighty. However, it is worth noting a special case in which their interests do trump those of human stakeholder groups.

Above, we saw the relevance of the interests of Otis to its family's choice of vacation. What should we say if instead of Otis the dog, the family had a pet tiger? Well, we should say "Don't keep a tiger as a pet!" Even

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<sup>18</sup> Lest this sound unintuitively strong, we should keep in mind that rarely will all things be perfectly equal.

<sup>19</sup> It is worth noting that this issue is underrecognized with respect to Stakeholder Theory in general. Similar points can be made regarding, say, customer advocacy for living wages or improved working conditions for employees.

setting aside the obvious safety and legal issues, the life of a pet is not the life for a tiger. As much as the family may love and strive to care for it, they will never be able to sufficiently take the tiger's interests into account. Tigers are "forbidden pets," not in the sense that it is illegal or impossible to keep one as a pet, but in the sense that it is impossible to do so ethically.

There are cases in which it is likewise impossible to ethically maintain animal participation, and such animals are *forbidden stakeholders*. Exotic animals provide the best examples of forbidden animal stakeholders as well as forbidden pets. Zoos are the businesses that are perhaps most clearly and consistently concerned with the interests of their participating animals. As we have learned more about what those interests are, however, it has become increasingly clear that for some large mammals this concern is not enough. In 2016, the marine mammal park SeaWorld announced that it would cease captive breeding of killer in response to increasing public outcry. Critics of the park can be read as arguing that killer whales are forbidden stakeholders given that they that travel up to 100 miles a day in their natural habitat.<sup>20</sup> Elephants provide a less extreme example. Research indicates that significant social structure and opportunity for foraging behavior are vital to the well-being the pachyderms (Meehan, Mench, Carlstead, & Hogan 2016). Not all zoos are able to provide these necessities; for such zoos, elephants are forbidden stakeholders.

#### 4.5 *A worry: forbidden stakeholders and fatal participation*

The notion of forbidden stakeholders throws into sharp relief an issue that this chapter has largely avoided until now – cases in which animals' participation entails their death.<sup>21</sup> I have been arguing that Stakeholder Theory provides a moderate-but-principled approach to treating animals ethically because it requires that businesses take their participating animals' interests into account. But surely survival is the most fundamental interest of every (healthy) creature. Shouldn't, therefore, all animals be forbidden stakeholders for businesses that produce meat, leather goods, and the like?

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<sup>20</sup> Though SeaWorld denies that the animals' well-being is affected by not swimming large distances. (CNN 2013).

<sup>21</sup> Thanks to Natalie Evans for suggesting that I address this issue more directly.

Perhaps, but not necessarily.

A stakeholder approach requires that the interests of participating animals be taken into account, but not that they always trump the interests of other stakeholders. Animals are forbidden stakeholders for a business when it is impossible for that business to take their interests into account in any significant way given the participation that they require. It is certainly true that being slaughtered for meat is not in a cow's interest, but the abattoir is not the only point of participation for beef cattle. Their entire lives are participation. Therefore, it is possible to take their interests into account in a significant way by, for instance, applying the work of Temple Grandin.<sup>22</sup> Such possibilities mean that beef cattle are not forbidden stakeholders. This is in contrast to the case of elephants above. These animals participate by living their elephantine lives on display for the education and entertainment of the zoo's customers. If the zoo lacks the resources to provide the foraging and socializing opportunities necessary for significant well-being during those lives, then the zoo is unable to take the interests of those elephants into account in any significant way.

Importantly, the above is not an argument for the permissibility of fatal participation. It is only meant to show that the stakeholder approach outlined in this chapter is not incompatible with such. However, endorsing a stakeholder approach does not require being sanguine about the killing of animals for food, clothing, or what have you. The determining factor is the normative core with which one fleshes out that approach. On some normative cores, survival interests of any stakeholder group will always trump any non-survival stakeholder interests. Again, I take Stakeholder Theory's compatibility with a variety of normative cores to be a virtue, and a primary reason for considering it a "moderate" approach to addressing issues of animal ethics in business. But normative cores are not all created equal. Those who hold such killings to be always immoral can and should reject normative cores that permit fatal participation, and attempt to convince others to do so as well.

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<sup>22</sup> See §4.2.

Stakeholder Theory provides a framework for businesses to take seriously their moral obligations to animals without adopting an all-or-nothing mindset. Animals may seem out of place alongside stakeholder groups such as customers, employees and shareholders, but that is only because of our tendency to focus on the agency of stakeholders. What matters is not agency, but operational (moral) patiency. Many, if not most, animals that are vital to the continued success of the organizations in which they participate meet this condition, and those organizations ought to consider the interests of their animals alongside those of other stakeholder groups.

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