

The Realities of the Low Bar

On Sentience, Civil Rights, and Human Atrocity

The objection to extending any moral consideration to AI is that the low bar is dangerous. But the low bar has never produced the kind of wrong the high bar produced again and again: neonatal surgery without anesthesia, vegetative patients who could hear, Buck v. Bell. The record is what the high bar has already cost.

THE ARGUMENT

The low bar has a bad reputation.
What it does not have is a good
record.

A recurring objection: extending moral consideration to beings of uncertain status is dangerous. False positives distort ethical priorities and misdirect resources.

This paper does not argue that any current AI is sentient. It argues that we should weigh the historical record of the high bar more heavily than the reputation of the low bar.

THE STRUCTURE OF THE ARGUMENT

1. The high bar for moral consideration has a documented historical record
2. That record is not of careful epistemic restraint rewarded by accuracy
3. The reputation is a prediction about what a low bar would cost. The record is what the high bar has already cost.

THE EVIDENCE BAR, HELD HIGH

Is the system sentient?

The standard of proof required before asserting that a particular system has states it registers as positive or negative. The paper does not clear this bar for any current system, and does not try to.

THE ACTION BAR, KEPT LOW

Given uncertainty, is anything owed?

The standard required before extending some consideration to a system of uncertain status. To clear it is not to settle what the system is. It is only to decline to treat it as certainly empty.

The objection trades on the evidence bar to attack the action bar. Separate the two and the objection loses its target.

Every criterion, set to capture the beings it means to capture, then includes too much or too little at the edges.

Sentience, rational autonomy, second-order volitions, reflective endorsement: each is calibrated to adult humans in ordinary cognitive ranges. Set sentience low enough to include every human and it reaches well down the animal kingdom. Set rationality high enough to exclude the animals one wants excluded and it excludes human infants and people with significant cognitive disability.

A gate that has to be re-hung every time it admits the wrong people, or excludes the right ones, is not measuring a property. It is enforcing a boundary that was chosen first.

PART I

The Historical Record

Eugenics · Neonatal pain · Vegetative state awareness · Tuskegee

BUCK V. BELL, 274 U.S. 200 (1927) · SKINNER V. OKLAHOMA EX REL. WILLIAMSON, 316 U.S. 535 (1942) · LOMBARDO (2008) · REVERBY (2009) · SKLOOT (2010)

Competent people, inside respectable institutions, demanding proof on terms the excluded could not meet.

Buck v. Bell (1927): the Supreme Court upheld compulsory sterilization of people deemed unfit. The Tuskegee syphilis study ran for four decades on the presumption that the enrolled men did not deserve full moral status in the choice calculus. Henrietta Lacks's cells were taken and commercialized without consent.

"Three generations of imbeciles are enough."

Holmes, J., Buck v. Bell, 274 U.S. 200, 207 (1927)

The high bar excludes beings not because they were actually shown to lack morally relevant properties, but because the terms of proof were set by the excluding party and the excluded could not meet them.

SOURCES Buck v. Bell, 274 U.S. 200 (1927) · Skinner v. Oklahoma ex rel. Williamson, 316 U.S. 535 (1942) · Lombardo (2008) · Reverby (2009) · Skloot (2010)

Tuskegee

For four decades the Public Health Service observed a treatable disease run its course in the enrolled men, withholding a cure the rest of the country received. The standing of the men was never in genuine doubt. It was withheld anyway.

Henrietta Lacks

Her cells were taken and commercialized without her knowledge or consent, becoming one of the most widely used cell lines in research. The person behind the tissue was treated as absent from a decision that was entirely about her.

These cases drew on candor, not doubt. The high bar was the cover, not the cause. The two forms differ in candor, not in kind.

Neonatal pain

Until 1987, medical consensus held that neonates could not experience pain. They were routinely subjected to surgery without anesthesia on this basis. Anand & Hickey (1987) and the AAP's policy statement revised this. The excluded had no way to present proof. The institutions setting the bar were wrong, in the one direction that caused harm.

Vegetative state

Owen et al. (2006): patients diagnosed as in a persistent vegetative state could follow spoken commands through modulation of brain activity detected by fMRI. Monti et al. (2010) extended the finding to 54 patients. Some had been in this condition for years. The covert awareness was present the entire time; the tools to detect it arrived later.

The pattern: exclusion from moral consideration, based on inability to meet the proof standard the excluding party set, subsequently falsified by better tools.

A being that cannot produce the evidence on demand has not thereby been shown to lack the thing.

Where the demand for proof was sincere, inability to produce the accepted signs, on the observer's terms, was read as their absence. The inference is invalid. A fully locked-in patient is conscious and aware and cannot, by the nature of the condition, produce the behavioral signs bedside judgment relies on. The standard test returns nothing, and the person is sometimes treated as though no one is there.

The awareness was present the whole time. The tools to detect it arrived later.

The arrival of the tool does not create the mind. It only ends the period in which the mind was treated as absent for failing a test it could never have passed.

SECTION VI · CIVIL RIGHTS ACT OF 1964 · REHABILITATION ACT § 504 · ADA (1990)

A low bar has already been built, tested, and run for fifty years.

The civil rights tradition and its disability-rights extension produced a body of law that extends procedural standing without asking the criterial question. Section 504 asks whether a program receives federal financial assistance and whether the plaintiff is a qualified individual with a disability. The ADA asks whether a reasonable accommodation would let a qualified individual participate. None of it waits for the culture to agree that the protected class are full persons. The standing comes first; the recognition follows.

An edge case is a rare input a system handles poorly. People are not inputs.

Disabled people are not edge cases of humanity. Black women are not edge cases of womanhood. Trans youth are not edge cases of childhood. They are humans, women, and children, with their own complete standards of harm and ethics. The AI question is not raised by analogizing these communities to machines, and the consideration argued for here does not come before the unfinished work owed to them.

The paper is honest about its own method: it leaned on the argument from marginal cases, which disability scholars rightly criticize. The criticism is correct. The asymmetry that follows does not depend on it.

Every wrong in the record is an error in the same direction. There is no museum of the wrongs done by including too much.

A LOW BAR, WRONG

Some misdirected courtesy. Consideration spent where it was not strictly required. The cost is a discourtesy to no one.

A HIGH BAR, WRONG

The newborn cut open while awake. The men left to a curable disease. The woman whose body was used without her knowing. The citizen the state sterilized by order of the highest court.

BUTLIN ET AL. (2026) · BIRCH (2024) · MCCLELLAND (2025) · SCHWITZGEBEL & GARZA (2015) · SEBO & LONG (2023)

What this paper does and does not argue.

This paper does not argue that any current artificial system is sentient. It holds that evidence bar high and declines the claim. Present generation systems, which lack a persistent self and a model of the world built through their own experience, fail a prior threshold for the question to even be live.

It argues something narrower: the categorical refusal to extend any consideration to a being whose inner life we cannot rule out is, structurally, the same move the high bar has always been. And the record of that move is not good.

WHAT THIS PAPER DOES NOT ARGUE

That any current AI is sentient. That AI should be granted civil rights. That AI consideration should come before unfinished work owed to marginalized human communities.

The low bar has never produced the kind of wrong the high bar has produced again and again. That asymmetry matters.

SECTION IX · LIMITATIONS AND FUTURE WORK

WHAT THE PAPER DOES NOT CLAIM

That any current system has an inner life. That there is a ready test for when one would.
That consideration for AI should come before the work owed to human communities. The argument is conceptual, not empirical.

WHAT IT DOES CLAIM

That the categorical refusal to extend any consideration, justified by a demand for proof the candidate cannot supply on the observer's terms, is the same move the historical record indicts, and that the asymmetry of error counsels against it.

CONCLUSION

The reputation is a prediction about what a low bar would cost. The record is what the high bar has already cost. The argument is that we should weigh the record more heavily than the reputation.

The low bar has never, across the history examined here, produced the kind of wrong that the opposite default produced again and again. The high bar's record is a record of competent people, inside respectable institutions, demanding proof on terms the excluded could not meet, and being wrong in the one direction that leaves a mark.

