



*Primum non nocere*

**What might the justice system learn from  
Hippocrates?**

The Piddington Society

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## *Primum non nocere*

### **What might the justice system learn from Hippocrates?**

The title of my presentation today, *primum non nocere*, could not be more misleading. I apologise in advance.

It is a Latin translation of a non-existent saying, by a Greek philosopher. What better, more productive way to think about ethics than to start with not one, but two, ancient languages in search of something meaningful for our own day. I apologise for that too.

So how did we arrive at this apparently pointless tour through ancient Latin and Greek? As some form of justification for leading you all down this rabbit hole, I should explain how I got there in the first place.

To do so, it may be useful if I work backwards.

*Primum non nocere* is a Latin phrase which, loosely translated, means 'first, do no harm'.

That statement, 'first, do no harm', is said to be part of the Hippocratic Oath: the ethical oath of doctors traditionally ascribed to Hippocrates of Kos, a physician in classical Greece who lived between approximately 460 BCE and 370 BCE.

This immediately points up a number of the problems with the title of my presentation.

First, if I was being true to Hippocrates, I would have used a Greek expression rather than a Latin one.

Secondly, as it turns out the phrase 'first, do no harm' never actually appears in any version of the Hippocratic Oath. The closest one gets is a phrase in the 245 CE version of the Oath, 'I will abstain from all intentional wrong-doing and harm', which doesn't quite capture the meaning of the eponymous phrase.

There is a third problem, of course, which is that Hippocrates almost certainly was not the source of what we understand to be the Hippocratic Oath.

At this point, I am now at least threefold into error.

So how did I come up with this apparently misleading and useless title?

I blame my late father, Dr Michael Quinlan. He was a physician and, throughout his professional life, had a great fondness for what was traditionally understood to be the Hippocratic Oath and, in particular, for what is understood to be its first principle, 'do no harm'.

So, in some respects, this presentation is an encomium to him; to use another Latin word of entirely Greek origin. I apologise for that also.

But having spent a good deal of time thinking about him, and medical ethics more generally of late, I have wondered how we, as lawyers, judges and other professionals within the justice system might learn something from medical ethics. Or at least medical ethics as I have understood them, over the years.

And this leads me to reflect, for a little while on two words that feature heavily in medical ethics but which don't get much of a run in our own: *harm* and *care*.

These are words that we use often in the *application* of the law. We use them about what other people do (we talk a lot about duties of care), but we don't use them about ourselves and our own ethical principles.

Let me give a couple of examples.

The *Legal Profession Conduct Rules 2010* use the expression 'harm' precisely twice. Once in the context of when a practitioner may disclose confidential client information, namely for the purpose of preventing 'imminent serious physical harm'. So qualified is the notion of harm in this context that it was necessary to include not one, but three adjectives to qualify the harm to be prevented: 'imminent', 'serious' and 'physical'. The other reference to 'harm' in the *Legal Profession Conduct Rules* is even more esoteric, and refers to circumstances in which a practitioner may confer with an unrepresented opponent who is being indemnified by an insurance company. No doubt consideration of these two potential harms referred to in the *Legal Profession Conduct Rules* impinge on all of your ethical consciences on a daily basis.

What about 'care'. How many times does the word 'care' appear in the *Legal Profession Conduct Rules*? Precisely none. Over the course of 52 pages. Not once.

By contrast the Australian Medical Association's Code of Ethics uses the word 'care' (or its cognates) 50 times. It does so over the course of a mere seven pages. Of course, the medical profession has embedded in its very genus the word 'care'; as in 'health care provider'. We are not called 'legal care providers' but 'legal service providers'. It might do us well to reflect upon why.

None of which is to suggest that lawyers, judges and the rest of us, do not 'care'. But we obviously don't reflect on the word as much as our brothers and sisters in the medical profession. And so it might do us well to reflect upon it ourselves.

But it was, in the first instance, the word 'harm' that sent me down this particular rabbit hole. So I will start with how we might benefit from the idea of 'first, do no harm'.

I have had, over the past couple of years, the nagging sense that, however much we might be aware of it, we, as a profession, don't acknowledge and are certainly not attentive to, the reality that our legal system, as a system, *hurts* people; really harms them in a variety of concrete lasting ways.

And notice, how I said, *as a system*. That is, *as a process*.

We might be philosophical about the inherent rightness of the outcomes of the legal system: that the aim is to produce a just outcome according to law, and that if it produces that outcome it is, by definition, not harmful. It is, simply, justice – as we have defined that term to be. Of course we might debate whether, in truth, our legal system is producing justice, or whether it is producing harm. But this is, generally, a second order question – and one that relates to the content of our laws themselves. And, at least in theory, these outcomes are what we want the legal system to produce, an outcome according to law. We may fervently wish to change this particular law, or that particular law (as any citizen might) but, if we cannot regard justice according to law as a desirable outcome *per se*, we might as well pack up and give the game away.

So it is not the outcome of the legal system that nags at me. What nags at me rather – as an ethical issue for our justice system – is not the legal outcome of the system as such – but the effect of the process itself, regardless of the legal outcome. That even when the system produces the result that, according to law it is supposed to produce, it hurts people and causes harm along the way.

And I don't just mean the people on what might be described as the 'receiving end of justice': the people who have been shown to be guilty, or wrong, or liable, as the case may be. It is everyone in the process that can be hurt by it: successful parties, unsuccessful parties, accused persons, victims, witnesses, lawyers and even judges.

How often is the correct decision in law arrived at, but what is left behind are people who are damaged or injured by the process? How often are even those people who have, on any objective analysis, 'won' left worse off because of the cost, delay and disruption of the system?

How often, to borrow from medical parlance, does the remedy we have prescribed turn out to be worse than the disease? How attentive are we to the harmful effects of our process – in economic, social, psychological and relational terms – when they are weighed against the apparent benefits to be obtained by that process? Do we notice the side effects at all?

Can I suggest that we are not very good at this? Or at least we are not as good as we think we are.

Let me take a very simple example: delay. Delay is a problem that besets our justice system at every level. Proceedings are delayed for all sorts of reasons: some of them good, some of them bad. As lawyers and judges we are used to delays – to the fact that things take time. There is only so much each of us can do with the time that we have. And so we understand, and accept, that delays are a natural and inevitable part of the system. Part of the cost of doing business.

But to a client, or a victim, or a witness, the delays that appear to us to be unavoidable, can cause real distress. Depending upon the nature of the issue, they can disrupt a person's entire life. It is, of course, true that some delays are unavoidable and, indeed, necessary. Nevertheless, we need to be able to recognise that their effects can be distressing and harmful. Even if all we can do is acknowledge to those affected that we are aware of those effects.

Being a judge, of course, I am acutely conscious of how these issues arise in a litigious context. And so the examples that come to my mind are naturally in that context. But I am sure that you will be able to bring to mind examples of your own, where harm or hurt is a side effect of the process.

Please understand, I am not here seeking to attribute guilt or blame, or to suggest that our legal system is always harmful or that it is inherently harmful. But sometimes, perhaps even most of the time, it does hurt people. Even if the ultimate outcome, the just outcome, justifies the harmful side effects (as in the case with any medicine). The very provision of justice itself may produce hurt or harm. And, what I want to suggest is that we need to find ways to be attentive to those harmful side effects, to open our eyes to see them and, if possible, to alleviate them. At least to acknowledge them.

This brings me to the other word we don't reflect upon enough: *care*.

Because to recognise the harm, or the hurt, caused by the very provision of justice, we have to be able to *care* about the people affected by the system, those to whom we might, in a formal sense, owe a duty of *care*, and (perhaps especially) those to whom we do not.

And it turns out that the word *care*, in this context, is even more interesting because of the many related, but subtly different, meanings that it has. Being attentive to these different meanings might help us to focus upon how we might be better lawyers and judges. How we should 'care' and maybe how we shouldn't.

There are lots of different meanings of the word *care*. Of course, there is a noun version of *care*. As in the Judy Garland song *Get Happy*:<sup>1</sup>

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<sup>1</sup> 'Get Happy' (Music: H Arlen; Lyrics: T Koehler), Judy Garland, *Summer Stock*, MGM Films (1950).

Forget your troubles, c'mon get happy  
 You better chase all your cares away.

I don't propose to discuss this noun form of *care*. Although someone might well like to pick it up later, particularly as it relates to mental health and wellbeing within the profession.

What I want to do is isolate two distinct verb forms of the word *care*.

In order to distinguish between them we might refer to how they relate to their objects.

The first use I want to identify is when we 'care *about*' something. So, for example, I might say 'I care *about* whether it rains tomorrow'. Or, 'I care *about* my children'.

The second use is when we 'care *for*' something. For example, I might say, 'the nurse cares *for* the sick patient'. Or, 'I care *for* my children'.

The last example shows that we can use these different senses of *care* ('care *about*' and 'care *for*') in relation to the same object (i.e. the same thing, person or persons the object of my care).

The first use of the word ('care *about*') describes a state of mind or inward disposition. The *caring* in this sense is something that happens inside of me. It can be about anything big or small, but usually it's about some particular thing or things, although in its negative sense (i.e. 'I don't care'), it might also be about everything. And so be an expression of nihilism.

Take, for example, the Ramones song *I Don't Care* from their album *Rocket to Russia*, the lyrics of which are:<sup>2</sup>

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<sup>2</sup> 'I Don't Care' (Music and Lyrics: Joey Ramone), Ramones, *Rocket to Russia*, Sire Records (1977).

I don't care (he don't care)  
 I don't care (he don't care)  
 I don't care (he don't care)  
 About this world  
 I don't care  
 About that girl  
 I don't care  
 I don't care

As a matter of literary analysis, given his pointed reference to 'that girl', I suspect that Joey Ramone actually cared very much about the girl the subject of the song. As Hamlet's mother, Queen Gertrude might have said 'the Ramone protesteth too much, methinks'.

Either way the example demonstrates that 'caring about' something or someone is very much an inward disposition. It does not require, or involve, action on the carer's part.

The second sense of the word, however (to care *for* something or someone), is very much an action. It requires us to do something in relation to the object of our care. If I care *for* a patient, I must do something to address his or her needs or ailment. If I care *for* my car, I must do something to it, such as clean it or change the oil.

I think it will be clear that when we talk about medical care, or our 'duty of care' as lawyers we are, almost invariably, using care in this latter sense. In the sense of things that we do *for* the patient or the client that are intended to meet their health or legal needs.

Care in this second sense (to care *for*) is obviously important and it has an

important ethical dimension that I will return to.

But for the moment, I want to focus on the first sense: to care *about* something or someone. Because I think it is more interesting and it takes us in different directions. That is because, I want to suggest, caring *about* the law, or justice or a client is in some senses essential to our ethics and in other senses potentially dangerous. So we need to think about how 'caring *about*' helps and how it hinders our ethics.

One of the advantages of 'caring *about*' something or someone is that, as it is an internal state, it is more concerned with the kind of person that I am, rather than just the things that I do. It is more about *being*, rather than *doing*. It is, to use a big word, ontological.

And for that reason it tends to be more long-lasting and stable. If I care *about* my client, or the other participants in the justice system, it is, in a sense a care that is always there.<sup>3</sup> It is not, to use an expression used by Justice Craig Colvin to describe rules-based legal ethics, 'episodic'.<sup>4</sup> Caring *about* our clients (victims, families, witnesses and others affected by the system), is the most fertile ground out of which the other kind of *care* (the active one) is able to grow and to thrive.

As the Australian philosopher Raimond Gaita put it, 'morality [we might say ethics] and our inner lives, the meaning we attach to things, form a seamless web'.<sup>5</sup>

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<sup>3</sup> Oops, there is Judy Garland's noun form of 'care' that I said I was going to avoid.

<sup>4</sup> C Colvin, 'Virtue, Honour and Ethics: Problems with a Deontological Perspective on Ethical Responsibilities of Lawyers', Paper presented at the Western Australian Bar Association Spring CPD (2020).

<sup>5</sup> R Gaita, *A Common Humanity: Thinking About Love & Truth & Justice*, Routledge Press (1999), 260.

Related to this is that 'caring *about*' engages the concept of *empathy*. Empathy itself is an internal state, and describes our capacity to imagine the internal states of others. It is our capacity to see other people as fully realised, living feeling human beings, with lives as real and as complex as our own. Obviously if we lack empathy, and we cannot see other people as fully realised human beings, with lives as real and as complex as our own, we literally cannot *see* (literally and figuratively) the hurt or harm done to them. In those circumstances, how could we even begin to practice an ethic of 'first, do no harm' if we cannot see the harm that we do.

It will probably not come as a shock to you if I suggest that we are witnessing, at least in the Western world, a general waning or decline in empathy. There are empirical studies that seem to bear this out. A 2010 study at the University of Michigan suggests that among American college students, between 1979 and 2009, measures of empathy (Empathic Concern measures and Perspective Taking measures) had decreased by around 40%, with the bulk of the decrease occurring more recently.<sup>6</sup> There are various theories as to why this has occurred, but two important possible causes that seem hard to ignore are the increasing amount of time we spend living online (and therefore not interpersonally) and the corresponding loss of our ability to *pay attention*.

So empathy and 'caring *about*', we might posit, requires personal contact, attentiveness and imagination, in a way that action doesn't. Because empathy is not an inner state that is brought about by thinking or cognition: we don't reason our way into empathy. Rather empathy is what some philosophers describe as arising from 'primitive reactions'. We gain empathy not by logic and analytical reasoning, but by attentiveness to the world around us and, most especially, to the

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<sup>6</sup> S Konrath, E O'Brien and C Hsing, Changes in Dispositional Empathy in American College Students Over Time: A Meta-Analysis, *Pers Soc Psychol Rev* (2011) 15: 180

people around us.

Again, Raimond Gaita has a useful way of putting this, drawing upon Ludwig Wittgenstein's account of how it is that we can know that other people have minds, inner states, like our own. Wittgenstein described the immediacy of our experience of a fellow human being in the following way:<sup>7</sup>

My attitude towards her is an attitude towards a soul. I am not of the *opinion* that she has a soul.

'Soul' in this context doesn't have any mystical or religious meaning. It just means fully realised, living feeling human being. When I come into meaningful contact with another person, I don't form an *opinion* that he or she is real and has an inner life (just like me). I *experience* it.

The example Gaita gives of 'an attitude towards a soul', is this: looking into a person's face while binding his wounds. He goes on:<sup>8</sup>

The fact that it is, in general, natural for us to look into a person's face while binding his wounds, and other facts like that, conditions our concept of pain, and inseparably from that, our sense of the object of our pity – a-human-being-in-pain.

... Wittgenstein seems to believe that our interactions with one another which are of the kind he calls 'an attitude towards a soul' form, rather than depend upon, our sense of being a common (human) kind ...

So our interactions with others, particularly with those who are suffering in some way, don't simply engage our sense of common humanity. They actually form or produce it. It is significant, it seems to me, that Gaita gives the example of 'binding another person's wounds' as an example of an attitude toward a soul that actually forms our sense of common humanity. It is a distinctly *medical* image.

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<sup>7</sup> L Wittgenstein, *Philosophical Investigations* (1953), II, iv, 178. I have adapted the pronoun in this quote.

<sup>8</sup> R Gaita, fn 5 above, 266 - 268.

The example, perhaps, gives us an insight into why empathy (caring *about*) seems to be more naturally associated with the medical profession than with the legal profession. Perhaps that is because members of the medical profession have more regular and more immediate access to the kind of situations that condition our concept of 'pain' and, with it, our sense of 'a-human-being-in-pain'. As the nature of our work is very often (although, I stress, not always) more cerebral – relating to words and ideas – compared with medical work, which relates to bodies and pain, our work tends to be more detached, and less able to form our sense of empathy – and in turn our care *about* clients, other parties, victims, witnesses etc. Because we don't (or don't as often) see the harm that comes from the system in which we operate, we don't recognise it when it arises, and by not recognising it, the harm does not make itself felt.

And so, for us, as judges and lawyers, empathy in our professional lives requires us to be more attentive to what is going on around us. To actively look for interactions with one another that are of the kind we can call 'an attitude towards a soul'.

Because I hope it is clear by now how important that it is, for our ethical lives, to 'care about' rather than just 'care for'. 'Caring about', as the fertile ground out of which the other kind of care is able to grow, ensures that ethics does not become reduced to a set of rules. As Sir Gerard Brennan once remarked:<sup>9</sup>

The first, and perhaps most important, thing to be said about ethics is that they cannot be reduced to rules. Ethics...are not so much learnt as lived. ... If ethics were reduced merely to rules, a spiritless compliance would soon be replaced by skilful evasion.

An understanding of legal ethics that is focused only on rules is, I suggest, the most impoverished understanding of ethics we could possibly have.

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<sup>9</sup> G Brennan, *Ethics and the advocate*, Speech delivered for the Bar Association of Queensland, 3 May 1992; quoted in Colvin, fn 4 above.

Please don't misunderstand me. There is nothing intrinsically wrong with rules. We need rules. We couldn't do without them and they can also perform important educative functions. But they can distract us from what is really going on, so that we lose sight of what is really important and we can't keep our eyes on what is really at stake.

Can I give a topical example to illustrate the impoverishment of a rules based approach to ethics?

One of the pressing ethical issues for our professions (legal and judicial) is the issue of sexual harassment.

Recent reviews, including by the Commissioner for Equal Opportunity in South Australia, revealed details of truly shocking instances of sexual harassment by lawyers and judicial officers. While they are very unpleasant to read, it is necessary to describe some of it for us to adequately appreciate the depth of the problem. You have to show it for what it is. One of the respondents in the South Australian Review, for example, gave this account:<sup>10</sup>

I have seen, and also experienced, many uncomfortable situations from men in the office ... I was absolutely shocked, however, to be continually harassed by a Magistrate. I remember being in his courtroom one morning whilst he was presiding over a matter and he was texting me inappropriately during the case. He said he was imagining me kneeling between his legs at the bench.

Predatory and dehumanising behaviour such as this can only be understood as reflecting a profound lack of empathy; an inability to see another person as a fully realised, living human being. And with that inability, an inability to care about the effect that such behaviour has. It also reveals something profoundly disturbing about a culture in which a person could so behave without any apparent fear of

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<sup>10</sup> Review of Sexual Harassment in the Legal Profession, Equal Opportunity Commission (SA), 9 April 2021, page 63.

consequence.

Almost at the same time (three days earlier) as the release of the South Australian Review, the Law Council of Australia released a *Discussion Paper for Revisions to the Australian Solicitor's Conduct Rules* in relation to the rule prohibiting anti-discrimination and harassment (rule 42) which identified what the paper describes as a 'regulatory gap'. To address the 'regulatory gap' the Discussion Paper proposes an amendment to the rule so that instead of providing that 'a solicitor must not in the course of legal practice, engage in conduct which constitutes' sexual harassment, the rule would provide that a 'solicitor must not in the course of, or in connection with, legal practice, engage in conduct which constitutes' sexual harassment.

I don't want to be unfair to the Law Council and I can understand the good intentions underlying the Discussion Paper. No doubt in the rules-focused ethical environment in which we find ourselves, amendments of this kind are necessary.

But, seriously?

The kinds of behaviour described by the South Australia Review, and elsewhere, do not arise from a lack of clarity in rules. They are symptomatic of a breakdown of a sense of common humanity.

If you need a rule to know that you shouldn't engage in predatory and dehumanising behaviour towards your colleagues and others, you have no business being a lawyer. Not just because you might engage in such behaviour without such a rule, but because you don't know the first thing about what it means to be a lawyer.

So 'caring about' (or empathy) is a critical part of our ethics that we need to rediscover.

But are there risks? Are there senses in which 'caring *about*' the client or the client's legal problem (or justice in general) can be an obstacle to our ethical outlook or framework?

I think that there are. Let me flesh out two possibilities that we might consider and then end with a final thought.

The first risk of 'caring *about*' is something that we should always be careful about then we think about our own inner dispositions: narcissism. This is ironic, because it seems to be the opposite of what I have been trying to say. But when we reflect upon it, we notice there can be a tendency, when we take 'caring about' justice (or empathy) as the focus of our ethics, that it becomes all about *me*. That my personal identification with a particular client, or better still with a particular client's cause, becomes the defining feature of my professional life. That everything becomes about the glorification of my image as a champion of justice and my superior empathy compared with those around me. Where empathy becomes distorted into its antithesis.

You don't have to spend much time on social justice forums or social media to see this sort of thing, which is often called out as 'virtue signalling'. But how often do we see it in ourselves? Not very often, I want to suggest. And that has a lot to do with how we construct our images of ourselves, and how very sensitive we get when it is pointed out to us. So it's good to have people around us to point out when we are making our ethics 'all about me'. I am fortunate to have a particularly acerbic teenage daughter who, when I default to this sort of thing, cuts me down with the line: 'you're *so* performative'. Would that we all had someone like that to bring us back to reality.

The second risk of 'caring *about*', is related to the first; even when our empathy is genuine and not performative. That risk is thinking that 'caring *about*' is enough, even if I don't have the ability to 'care *for*', in the sense that I described

it earlier: the ability to do something in relation to the object of my care. If you care about a person, or their problem, but do not have the capacity to deliver the 'care'<sup>11</sup> that they need, but try to do so anyway; you are worse than useless. It won't be that you simply will not help that person. You will positively harm them.

Take an extreme example, again from the medical world. I may genuinely care about, and empathise, with a person who is suffering from a particular ailment or disease. But I am not competent to provide medical or surgical treatment. If I try to prescribe medication or perform surgery, not only will I not alleviate the person's suffering, I will almost certainly make it worse. I will cause harm.

The same principle applies to legal practice. I may care about a client, but if I have gone beyond the limits of my experience or competence, my 'care about' the client amounts to nothing. Everything I do for the client will be causing them more harm.

I hope you will also see that the most dangerous situation of all is when the two problems I have identified occur at the same time. When I am acting out of a need to glorify my image as a champion of justice and my moral superiority to those around me but I am wholly unable to perform the task at hand. Lawyering like this leaves behind a wreckage that is often not able to be remedied.

So we need to remember: our competence in any particular situation is an ethical issue. To act beyond one's competence is an ethical failure as much as it is a technical one.

And most judges will tell you that the ethical failures that they often find the most troubling (even the most distressing) are not deliberate wrongdoing or dishonesty. Those failures, in a sense, are easy. You can see them, call them out and deal with them. More troubling and more distressing is having a litigant before you who is

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<sup>11</sup> There's yet another noun form of the word *care*.

represented by someone who is out of their depth and is simply not able to deliver. Because in those cases you feel helpless. People who are out of their depth, for that very reason, often don't know it and they can't have it easily pointed out to them. And there is only so much, consistent with the requirement to be impartial, that a judge can do to rectify it. So it sometimes feels like watching a train crash in slow motion.

So, it turns out, 'caring *for*' is just as indispensable as 'caring *about*' and that sometimes 'caring *about*' can lead us into ethical error.

There is an ethical paradox here I think. Somehow we have to 'care about' and 'not care about' at the same time.

Can 'not caring' be sign of 'caring for'? And not in the Joey Ramone sense (protesting too much), when he says 'I don't care about that girl'. But real 'caring *for*'?

I think it can.

Sometimes 'I don't care' can be an indication of unconditional commitment to a person or principle. I remember reading once that while the two concepts could not be more different, sometimes 'love' and 'indifference' look, from the outside, to be identical. It's all about where you put the stress. Indifference says: 'I don't *care* what you do'. Love says: 'I don't care *what* you do'.<sup>12</sup>

And so the ethical imperative to 'care' and 'not care' is a paradox. The good thing about paradoxes, however, is that you don't have to solve them. You just have to sit with them.

To help us with this paradox, I will end with a personal story that might help us

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<sup>12</sup> I am fairly certain I got this from English philosopher and theologian Herbert McCabe OP. But I can't for the life of me find the reference.

to think about the connection between 'being' and 'doing'; and the connection between 'caring *about*' and 'caring *for*'.

The story is a simple one but one in which, to me, was an ethical 'light-bulb moment'.

Many years ago, it was necessary for our daughter, at the age of three years, to have life-saving surgery. The operation took about five hours, following which she had to remain in the intensive care unit of what was then Princess Margaret Hospital. The first time that we got to see her following the operation was when she was wheeled, unconscious on a hospital bed, down the corridor into the ICU. Needless to say, it was a confronting, alien environment.

Intensive care units are a hive of activity. And they are generally set up so that there is one nurse per patient.

So on this particular occasion we arrived at the ICU and in the bay was a nurse, who we have never met before, already waiting for us. And she immediately went to work: hooking up heart monitors, oxygen mask and monitor, drains, arterial lines, intravenous drips. Quickly. Competently. With an obvious technical skill that she has deployed many times before. A model of '*caring for*'. All with the elegant anonymity that only a true professional can have.

And all we could do was stand at the end of the bed and watch, helpless; still in a state of shock. Then the nurse paused, having attended to the immediate tasks, and looks over at us. And all we could muster, over and over, barely audibly, is 'thank you, thank you, thank you'.

And almost instinctively, she responded. Now it may be an embellishment on my part, but, in my memory, she is pointing a finger at me.

But, whether or not she was pointing, I can still remember precisely what she said. Firmly (almost, but not quite, sternly):

Don't thank me. This is my job.

Those seven words, were, I dare say, the most profoundly moving lesson in ethics I have ever had.

When I recounted the story to someone shortly afterwards, their response was that they thought the comment was cold, lacking in empathy, even mercenary.

But it wasn't cold or lacking empathy at all. It was precisely the opposite.

It was the reaction of a person whose 'caring *about*' and 'caring *for*' had become indistinguishable. A person whose 'being' and 'doing', in ethical terms, were one and the same thing.

Or as Gerard Manley Hopkins put it, it is the response of someone crying out: *What I do is me: for that I came.*<sup>13</sup>

That nurse's statement, 'Don't thank me, this is my job', we might translate, for present purposes, as:

'There is no need to thank me. This is what I do and is part of who I am. I could not do otherwise.'

Or more simply: 'I don't care if you thank me. I am going to do this anyway. It is in my nature to care.'

Or just: 'I don't care. I *care*.'

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<sup>13</sup> G M Hopkins, *As Kingfishers Catch Fire*, Gerard Manley Hopkins: Poems and Prose, Penguin Classics (1985).

Bringing together being and doing (caring *about* and caring *for*) in this way is not easy. As I said earlier, it requires attentiveness to the world around us and, most especially, to the people around us. And some of us find doing that very difficult.

But some people can do it.

The nurse we encountered that day could do it. My father could do it. And I have seen lawyers, including lawyers in this room, who can also do it.

To those of you who can bring together being and doing in this way, you inspire the rest of us.

And the least we can do in return is to all try a little harder.

Thank you for your attention.