An important step in understanding the catastrophe in our financial sector is to identify the most significant cause of the meltdown.

We think the most significant cause is excessive short-term maximization of self-interest among both private and government leaders for the financial sector. This led to extraordinary levels of leverage and risk that leaders knew were unsustainable and threatening to the stability of our financial institutions.

In July 2007, former Citigroup CEO Charles Prince commented, “When the music stops, in terms of liquidity, things will get complicated. But as long as the music is playing, you’ve got to get up and dance. We’re still dancing.”

President Barack Obama characterizes the excessive short-term maximization of self-interest in this period as a failure of ethically responsible leadership.

“We arrived at that point as a result of an era of profound irresponsibility that engulfed both public and private institutions from some of our largest companies’ executive suites to the seats of power in Washington, D.C.,” Obama said.

The central theme of the inaugural address was to call for ethically responsible leadership in business, the gate-keeping professions and government.

**Ethically responsible leadership**

What does ethically responsible leadership look like in the legal profession?

Leadership literature abounds with lists of qualities, attitudes, behaviors and skills that define “leadership.” But at its simplest, leadership is influencing others toward some conclusion or condition.

Ethical leadership means that those who are influencing others are giving attention not just to the minimum standard of what is lawful but also to principles of morality defining right and wrong conduct.

Lawyers are expert at influencing others. In adversary contexts, lawyers rely on their skills of persuasion. As advisers to clients, lawyers must influence without authority as the client ultimately makes the call. Therefore, the same skills — listening, perspective-taking, conceptualizing, persuading, counseling and community-building — that a business or government leader brings into play to influence people to make things happen (while fostering positive commitment and energy) are the same critical skills lawyers require to do their jobs effectively. And given that most lawyers, whether they work in large law firms or manage their own offices, work with and for people day in and day out, these skills are just as critical to getting things done for the lawyer as they are for the business or government leader.
Whose ethical principles?

How to influence others ethically with an eye not just on the minimum of law compliance but also on principles of right and wrong conduct immediately raises the question of whose principles are relevant — the lawyer’s or the client’s?

Both the lawyer’s and the client’s ethical principles are relevant. A lawyer is trying to help a client think through the client’s “best interests” in the context of the representation; the client’s ethical principles are clearly relevant to thinking through the client’s best interests. But the lawyer cannot help the client think through these matters unless the lawyer has developed both self-knowledge about the lawyer’s principles of right and wrong and empathy.

Empathy is the ability to perceive a situation through another person’s eyes and to understand it in the way he or she understands it. Self-knowledge is knowledge of one’s own character (including the first ethical principles on which character is built), emotions and motivation.

The ethical leadership literature also points toward empathy and self-knowledge as clearly linked; the two concepts tend to appear together as the foundation of ethical leadership.

Dan Goleman’s groundbreaking book, “Emotional Intelligence,” includes among its five factors “knowing one’s emotions” or self-knowledge, as well as “recognizing emotions in others” or empathy.

A recent work published by the Center for Creative Leadership, “Building Character: Strengthening the Heart of Good Leadership,” puts forth five influential attributes of character-driven leadership. They are:

• caring,
• communication,
• self-control,
• courage and
• optimism.

At the core of caring is empathy. At the core of self-control is self-knowledge. Effective communication requires both.

David Maister, in “The Trusted Advisor,” provides a model for professionals to build client relationships that transition from one where the professional is expected to provide technical solutions to technical problems to one where the professional serves as a perspective-giver and insight-provider on the bigger picture. A trusted advisor earns trust through excellent technical skills combined with both sufficient self-knowledge to be authentic and to subordinate the lawyer’s own ego to focus on care for the client, and empathy, including strong listening skills. The trusted advisor has the skill of asking the right questions to help a client think a problem through from the client’s perspective, but in the lawyer’s own self-knowledge and empathy inform the questions.
Goleman describes self-knowledge as an “ongoing attention to one’s internal states. In this self-reflexive awareness [the] mind observes and investigates experience itself, including the emotions.”

A young associate at a large Dallas firm expressed her frustration to us that there was no partner that she readily identified with, and that no one there seemed interested in investing in her personally. As one of the firm’s top billing associates with excellent reviews and good results, she expected that someone would think she was worth fostering a mentoring relationship with.

We asked her whether she ever expressed an interest in this kind of relationship to any of the partners she had worked for. Her response was, “Well, sometimes I ask about their families and stuff, but then I get bored and just want to get back to work.”

Our question to her was, “Don’t you think they know that?” Why would a busy senior professional take time out to connect with a younger, less-experienced associate if there’s no indication such a move would be welcomed? The associate was failing on both self-knowledge and empathy regarding her “client” — the senior lawyers who give her work.

The obstacles to self-knowledge are 1) lack of honest, actionable feedback from others, and 2) defensiveness in reflecting on and internalizing the feedback a person gets.

Research suggests that self-assessment alone has substantial problems of bias in perception. Lack of honest feedback is a problem the business world has worked to overcome with anonymous 360-degree evaluations from clients, customers, supervisors, peers and staff. A best-case scenario for developing self-knowledge would be to employ a validated, research-based 360 that includes a self-rating. In this situation, the person receiving the evaluation can compare his or her self-ratings to those supervisors, clients, peers and staff reports have given to the person.

In a broad 2006 National Association of Law Placement survey of managing partners, 23 percent of the managing partners in firms of more than 500 lawyers reported the use of upward 360-degree reviews by associates of senior attorneys.

Empathy is rooted in self-knowledge. It requires a person to suspend his or her emotions and reactions to a problem or situation, and seek to simply understand the other person’s perspective. The obstacle to empathy is being either so lost in your own perspective that you’re unwilling to suspend it, or so disconnected from yourself that you can’t discern when you’re having a reaction or imposing your assumptions.

**Room for improvement**

Lawyers who have empathy and self-knowledge foster a client’s empathy and self-knowledge, as well as a client’s ethical principles. This is ethically responsible leadership that would mitigate the excessive short-term self interest that caused the current catastrophe in the financial sector.

The Carnegie Foundation for the Advancement of Teaching’s recent study of legal education, “Educating Lawyers,” finds that we could do much better to help students develop an ethical professional identity including self-knowledge and empathy.
Harvard Business School professor Rakesh Khurana’s recent book, “From Higher Aims to Hired Hands,” finds that graduate business schools are almost totally failing in helping students to develop an ethical professional identity.

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