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[B.M. No. 553. June 17, 1993]

MAURICIO C. ULEP, *petitioner, vs.* **THE LEGAL CLINIC, INC.,** *respondent.*

SYLLABUS

1. LEGAL ETHICS; PRACTICE OF LAW, MEANING AND EXTENT OF. — Practice of law means any activity, in or out of court, which requires the application of law, legal procedures, knowledge, training and experience. To engage in the practice of law is to perform those acts which are characteristic of the profession. Generally, to practice law is to give advice or render any kind of service that involves legal knowledge or skill. The practice of law is not limited to the conduct of cases in court. It includes legal advice and counsel, and the preparation of legal instruments and contracts by which legal rights are secured, although such matter may or may not be pending in a court. In the practice of his profession, a licensed attorney at law generally engages in three principal types of professional activity: legal advice and instructions to clients to inform them of their rights and obligations, preparation for clients of documents requiring knowledge of legal principles not possessed by ordinary layman, and appearance for clients before public tribunals which possess power and authority to determine rights of life, liberty, and property according to law, in order to assist in proper interpretation and enforcement of law. When a person participates in a trial and advertises himself as a lawyer, he is in the practice of law. One who confers with clients, advises them as to their legal rights and then takes the business to an attorney and asks the latter to look after the case in court, is also practicing law. Giving advice for compensation regarding the legal status and rights of another and the conduct with respect thereto constitutes a practice of law. One who renders an opinion as to the proper interpretation of a statute, and receives pay for it, is, to that extent, practicing law.

2. ID.; ID.; LEGAL SUPPORT SERVICES IN CASE AT BAR CONSTITUTE PRACTICE OF LAW. — The practice of law, therefore, covers a wide range of activities in and out of

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court. Applying the aforementioned criteria to the case at bar, we agree with the perceptive findings and observations of the aforestated bar associations that the activities of respondent, as advertised, constitute "practice of law." The contention of respondent that it merely offers legal support services can neither be seriously considered nor sustained. Said proposition is belied by respondent's own description of the services it has been offering, to wit: x x x While some of the services being offered by respondent corporation merely involve mechanical and technical know-how, such as the installation of computer systems and programs for the efficient management of law offices, or the computerization of research aids and materials, these will not suffice to justify an exception to the general rule. What is palpably clear is that respondent corporation gives out legal information to laymen and lawyers. Its contention that such function is non-advisory and non-diagnostic is more apparent than real. In providing information, for example, about foreign laws on marriage, divorce and adoptation, it strains the credulity of this Court that all that respondent corporation will simply do is look for the law, furnish a copy thereof to the client, and stop there as if it were merely a bookstore. With its attorneys and so called paralegals, it will necessarily have to explain to the client the intricacies of the law and advise him or her on the proper course of action to be taken as may be provided for by said law. That is what its advertisements represent and for which services it will consequently charge and be paid. That activity falls squarely within the jurisprudential definition of "practice of law." Such a conclusion will not be altered by the fact that respondent corporation does not represent clients in court since law practice, as the weight of authority holds, is not limited merely to court appearances but extends to legal research, giving legal advice, contract drafting, and so forth. The aforesaid conclusion is further strengthened by an article published in the January 13, 1991 issue of the *Starweek/The Sunday Magazine of the Philippine Star*, entitled "Rx for Legal Problems," where an insight into the structure, main purpose and operations of respondent corporation was given by its own "proprietor".

3. **ID.; ID.; ID.; PARALEGAL OR LEGAL ASSISTANT; CONCEPT IN THE UNITED STATES. —** Paralegals in the United States are trained professionals. As admitted by respondent, there are schools and universities there which offer studies and degrees

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in paralegal education, while there are none in the Philippines. As the concept of the "paralegal" or "legal assistant" evolved in the United States, standards and guidelines also evolved to protect the general public. One of the major standards or guidelines was developed by the American Bar Association which set up Guidelines for the Approval of Legal Assistant Education Programs (1973). Legislation has even been proposed to certify legal assistants. There are also associations of paralegals in the United States with their own code of professional ethics, such as the National Association of Legal Assistants, Inc. and the American Paralegal Association.

4. ID.; ID.; ID.; ID.; CONCEPT IN THE PHILIPPINES. — In the Philippines, we still have a restricted concept and limited acceptance of what may be considered as paralegal service. As pointed out by FIDA, some persons not duly licensed to practice law are or have been allowed limited representation in behalf of another or to render legal services, but such allowable services are limited in scope and extent by the law, rules or regulations granting permission therefor.

5. ID.; ID.; ID.; ID.; PHILIPPINE JUDICIAL POLICY ON PARALEGAL. — We have to necessarily and definitely reject respondent's position that the concept in the United States of paralegals as an occupation separate from the law profession be adopted in this jurisdiction. Whatever may be its merits, respondent cannot but be aware that this should first be a matter for judicial rules or legislative action, and not of unilateral adoption as it has done. x x x. Accordingly, we have adopted the American judicial policy that, in the absence of constitutional or statutory authority, a person who has not been admitted as an attorney cannot practice law for the proper administration of justice cannot be hindered by the unwarranted intrusion of an unauthorized and unskilled person into the practice of law. That policy should continue to be one of encouraging persons who are unsure of their legal rights and remedies to seek legal assistance only from persons licensed to practice law in the state.

6. ID.; ID.; ID.; ID.; ID.; PRACTICE OF LAW IN CASE AT BAR CANNOT BE PERFORMED BY PARALEGALS; REASON. — It should be noted that in our jurisdiction the services being offered by private respondent which constitute

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practice of law cannot be performed by paralegals. Only a person duly admitted as a member of the bar, or hereafter admitted as such in accordance with the provisions of the Rules of Court, and who is in good and regular standing, is entitled to practice law. x x x.

7. ID.; ADVERTISEMENT BY LAWYER; RULE. — Anent the issue on the validity of the questioned advertisements, the Code of Professional Responsibility provides that a lawyer in making known his legal services shall use only true, honest, fair, dignified and objective information or statement of facts. He is not supposed to use or permit the use of any false, fraudulent, misleading, deceptive, undignified, self-laudatory or unfair statement or claim regarding his qualifications or legal services. Nor shall he pay or give something of value to representatives of the mass media in anticipation of, or in return for, publicity to attract legal business. Prior to the adoption of the Code of Professional Responsibility, the Canons of Professional Ethics had also warned that lawyers should not resort to indirect advertisements for professional employment, such as furnishing or inspiring newspaper comments, or procuring his photograph to be published in connection with causes in which the lawyer has been or is engaged or concerning the manner of their conduct, the magnitude of the interest involved, the importance of the lawyer's position, and all other like self-laudation.

8. ID.; ID.; ID.; CHARACTER AND CONDUCT AS BEST ADVERTISEMENT. — We repeat, the canons of the profession tell us that the best advertising possible for a lawyer is a well-merited reputation for professional capacity and fidelity to trust, which must be earned as the outcome of character and conduct. Good and efficient service to a client as well as to the community has a way of publicizing itself and catching public attention. That publicity is a normal by-product of effective service which is right and proper. A good and reputable lawyer needs no artificial stimulus to generate it and to magnify his success. He easily sees the difference between a normal by-product of able service and the unwholesome result of propaganda.

9. ID.; ID.; ID.; PROHIBITION ON ADVERTISEMENT OF TALENT OR SKILL. — The standards of the legal profession condemn the lawyer's advertisement of his talents. A lawyer cannot, without violating the ethics of his profession, advertise his

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talents or skills as in a manner similar to a merchant advertising his goods. The proscription against advertising of legal services or solicitation of legal business rests on the fundamental postulate that the practice of law is a profession. x x x.

10. ID.; ID.; ID.; ID.; EXCEPTIONS. — The first of such exceptions is the publication in reputable law lists, in a manner consistent with the standards of conduct imposed by the canons, of brief biographical and informative data. "Such data must not be misleading and may include only a statement of the lawyer's name and the names of his professional associates; addresses, telephone numbers, cable addresses; branches of law practiced; date and place of birth and admission to the bar; schools attended with dates of graduation, degrees and other educational distinction; public or quasi-public offices; posts of honor; legal authorships; legal teaching positions; memberships and offices in bar associations and committees thereof, in legal and scientific societies and legal fraternities; the fact of listings in other reputable law lists; the names and addresses of references; and, with their written consent, the names of clients regularly represented." x x x The use of an ordinary simple professional card is also permitted. The card may contain only a statement of his name, the name of the law firm which he is connected with, address, telephone number and special branch of law practiced. The publication of a simple announcement of the opening of a law firm or of changes in the partnership, associates, firm name or office address, being for the convenience of the profession, is not objectionable. He may likewise have his name listed in a telephone directory but not under a designation of special branch of law.

11. ID.; ID.; ID.; ID.; ID.; REQUIREMENT FOR LAW LIST. — The law list must be a reputable law list published primarily for that purpose; it cannot be a mere supplemental feature of a paper, magazine, trade journal or periodical which is published principally for other purposes. For that reason, a lawyer may not properly publish his brief biographical and informative data in a daily paper, magazine, trade journal or society program. Nor may a lawyer permit his name to be published in a law list the conduct, management or contents of which are calculated or likely to deceive or injure the public or the bar, or to lower the dignity or standing of the profession.

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12. ID.; ID.; ID.; ID.; ID.; CASE AT BAR. — Verily, taking into consideration the nature and contents of the advertisements for which respondent is being taken to task, which even includes a quotation of the fees charged by said respondent corporation for services rendered, we find and so hold that the same definitely do not and conclusively cannot fall under any of the above-mentioned exceptions.

13. ID.; ID.; ID.; ID.; ID.; ID.; EXCEPTION IN *BATES, ET AL. vs. STATE BAR OF ARIZONA* (433 U.S. 350, 53 L Ed 2d 810, 97 S Ct. 2691) AS TO PUBLICATION OF LEGAL FEES, NOT APPLICABLE; REASONS. — The ruling in the case of *Bates, et al. vs. State Bar of Arizona*, which is repeatedly invoked and constitutes the justification relied upon by respondent, is obviously not applicable to the case at bar. Foremost is the fact that the disciplinary rule involved in said case explicitly allows a lawyer, as an exception to the prohibition against advertisements by lawyers, to publish a statement of legal fees for an initial consultation or the availability upon request of a written schedule of fees or an estimate of the fee to be charged for the specific services. No such exception is provided for, expressly or impliedly, whether in our former Canons of Professional Ethics or the present Code of Professional Responsibility. Besides, even the disciplinary rule in the *Bates* case contains a proviso that the exceptions stated therein are "not applicable in any state unless and until it is implemented by such authority in that state." This goes to show that an exception to the general rule, such as that being invoked by herein respondent, can be made only if and when the canons expressly provide for such an exception. Otherwise, the prohibition stands, as in the case at bar. It bears mention that in a survey conducted by the American Bar Association after the decision in *Bates*, on the attitude of the public about lawyers after viewing television commercials, it was found that public opinion dropped significantly with respect to these characteristics of lawyers: x x x Secondly, it is our firm belief that with the present situation of our legal and judicial systems, to allow the publication of advertisements of the kind used by respondent would only serve to aggravate what is already a deteriorating public opinion of the legal profession whose integrity has consistently been under attack lately by media and the community in general. At this point in time, it is of utmost importance in the face of such negative, even if unfair,

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criticisms at times, to adopt and maintain that level of professional conduct which is beyond reproach, and to exert all efforts to regain the high esteem formerly accorded to the legal profession.

R E S O L U T I O N

REGALADO, *J.*:

Petitioner prays this Court "to order the respondent to cease and desist from issuing advertisements similar to or of the same tenor as that of Annexes 'A' and 'B' (of said petition) and to perpetually prohibit persons or entities from making advertisements pertaining to the exercise of the law profession other than those allowed by law."

The advertisements complained of by herein petitioner are as follows:

Annex A

SECRET MARRIAGE?
₱560.00 for a valid marriage.
Info on *DIVORCE. ABSENCE. ANNULMENT. VISA.*

THE LEGAL CLINIC, INC.	Please call: 521-0767, 5217232, 5222041 8:30 am-6:00 pm 7-Flr. Victoria Bldg., UN Ave., Mla.

Annex B

GUAM DIVORCE

DON PARKINSON

an Attorney in Guam, is giving FREE BOOKS on Guam Divorce through The Legal Clinic beginning Monday to Friday during office hours.

Guam divorce. Annulment of Marriage. Immigration Problems, Visa Ext. Quota/Non-quota Res. & Special Retiree's Visa. Declaration of Absence. Remarriage to Filipina Fiancees. Adoption. Investment in the Phil. US/Foreign Visa for Filipina Spouse/Children. Call Marivic.

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THE LEGAL CLINIC, INC.[1]	7 F Victoria Bldg. 429 UN Ave. Ermita, Manila nr. US Embassy Tels. 521-7232; 521-7251 522-2041; 521-0767

It is the submission of petitioner that the advertisements above reproduced are champertous, unethical, demeaning of the law profession, and destructive of the confidence of the community in the integrity of the members of the bar and that, as a member of the legal profession, he is ashamed and offended by the said advertisements, hence the reliefs sought in his petition as herein before quoted.

In its answer to the petition, respondent admits the fact of publication of said advertisements at its instance, but claims that it is not engaged in the practice of law but in the rendering of "legal support services" through paralegals with the use of modern computers and electronic machines. Respondent further argues that assuming that the services advertised are legal services, the act of advertising these services should be allowed supposedly in the light of the case of *John R. Bates and Van O'Steen vs. State Bar of Arizona*,[2] reportedly decided by the United States Supreme Court on June 7, 1977.

Considering the critical implications on the legal profession of the issues raised herein, we required the (1) Integrated Bar of the Philippines (IBP), (2) Philippine Bar Association (PBA), (3) Philippine Lawyers' Association (PLA), (4) U.P. Women Lawyers' Circle (WILOCI), (5) Women Lawyers Association of the Philippines (WLAP), and (6) Federation International de Abogadas (FIDA) to submit their respective position papers on the controversy and, thereafter, their memoranda.[3] The said

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[1] *Rollo*, 5. A facsimile of the scales of justice is printed together with and on the left side of "The Legal Clinic, Inc." in both advertisements which were published in a newspaper of general circulation.

[2] 433 U.S. 350, 53 L Ed 2d 810, 97 S Ct. 2691.

[3] Resolution dated January 15, 1991, *Rollo*, 60; Resolution dated December 10, 1991, *Rollo*, 328.

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bar associations readily responded and extended their valuable services and cooperation of which this Court takes note with appreciation and gratitude.

The main issues posed for resolution before the Court are whether or not the services offered by respondent, The Legal Clinic, Inc., as advertised by it constitutes practice of law and, in either case, whether the same can properly be the subject of the advertisements herein complained of.

Before proceeding with an in-depth analysis of the merits of this case, we deem it proper and enlightening to present hereunder excerpts from the respective position papers adopted by the aforementioned bar associations and the memoranda submitted by them on the issues involved in this bar matter.

1. *Integrated Bar of the Philippines:*

x x x x x x x x x

Notwithstanding the subtle manner by which respondent endeavored to distinguish the two terms, *i.e.*, "legal support services" *vis-a-vis* "legal services", common sense would readily dictate that the same are essentially without substantial distinction. For who could deny that document search, evidence gathering, assistance to layman in need of basic institutional services from government or non-government agencies like birth, marriage, property, or business registration, obtaining documents like clearance, passports, local or foreign visas, constitute practice of law?

x x x x x x x x x

The Integrated Bar of the Philippines (IBP) does not wish to make issue with respondent's foreign citations. Suffice it to state that the IBP has made its position manifest, to wit, that it strongly opposes the view espoused by respondent (to the effect that today it is alright to advertise one's legal services).

The IBP accordingly declares in no uncertain terms its opposition to respondent's act of establishing a "legal clinic" and of concomitantly advertising the same through newspaper publications.

The IBP would therefore invoke the administrative supervision of this Honorable Court to perpetually restrain respondent from

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undertaking highly unethical activities in the field of law practice as aforedescribed.[4]

x x x x x x x x x

A. The use of the name "The Legal Clinic, Inc." gives the impression that respondent corporation is being operated by lawyers and that it renders legal services.

While the respondent repeatedly denies that it offers legal services to the public, the advertisements in question give the impression that respondent is offering legal services. The Petition in fact simply assumes this to be so, as earlier mentioned, apparently because this (is) the effect that the advertisements have on the reading public.

The impression created by the advertisements in question can be traced, first of all, to the very name being used by respondent — "The Legal Clinic, Inc." Such a name, it is respectfully submitted connotes the rendering of legal services for legal problems, just like a medical clinic connotes medical services for medical problems. More importantly, the term "Legal Clinic" connotes lawyers, as the term medical clinic connotes doctors.

Furthermore, the respondent's name, as published in the advertisements subject of the present case, appears with (the) scale(s) of justice, which all the more reinforces the impression that it is being operated by members of the bar and that it offers legal services. In addition, the advertisements in question appear with a picture and name of a person being represented as a lawyer from Guam, and this practically removes whatever doubt may still remain as to the nature of the service or services being offered.

It thus becomes irrelevant whether respondent is merely offering "legal support services" as claimed by it, or whether it offers legal services as any lawyer actively engaged in law practice does. And it becomes unnecessary to make a distinction between "legal services" and "legal support services," as the respondent would have it. The advertisements in question leave no room for doubt in the minds of the reading public that legal services are being offered by lawyers, whether true or not.

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[4] Position Paper prepared by Atty. Basilio H. Alo, IBP Director for Legal Affairs, 1, 10; *Rollo*, 209, 218.

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B. The advertisements in question are meant to induce the performance of acts contrary to law, morals, public order and public policy.

It may be conceded that, as the respondent claims, the advertisements in question are only meant to inform the general public of the services being offered by it. Said advertisements, however, emphasize a Guam divorce, and any law student ought to know that under the Family Code, there is only one instance when a foreign divorce, is recognized, and that is:

Article 26. x x x..

> Where a marriage between a Filipino citizen and a foreigner is validly celebrated and *a divorce is thereafter validly obtained abroad by the alien spouse capacitating him or her to remarry*, the Filipino spouse shall have capacity to remarry under Philippine Law.

It must not be forgotten, too, that the Family Code (defines) a marriage as follows:

> Article 1. Marriage is *a special contract of permanent union* between a man and a woman entered into in accordance with law for the establishment of conjugal and family life. *It is the foundation of the family and an inviolable social institution* whose nature, consequences, and incidents are governed by law and not subject to stipulation, except that marriage settlements may fix the property relation during the marriage within the limits provided by this Code.

By simply reading the questioned advertisements, it is obvious that the message being conveyed is that Filipinos can avoid the legal consequences of a marriage celebrated in accordance with our law, by simply going to Guam for a divorce. This is not only misleading, but encourages, or serves to induce, violation of Philippine law. At the very least, this can be considered "the dark side" of legal practice, where certain defects in Philippine laws are exploited for the sake of profit. At worst, this is outright malpractice.

> Rule 1.02. — A lawyer shall not counsel or abet activities aimed at defiance of the law or at lessening confidence in the legal system.

In addition, it may also be relevant to point out that advertisements such as that shown in Annex "A" of the Petition, which contains

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a cartoon of a motor vehicle with the words "Just Married" on its bumper and seems to address those planning a "secret marriage," if not suggesting a "secret marriage," makes light of the "special contract of permanent union," the inviolable social institution," which is how the Family Code describes marriage, obviously to emphasize its sanctity and inviolability. Worse, this particular advertisement appears to encourage marriages celebrated in secrecy, which is suggestive of immoral publication of applications for a marriage license.

If the article "Rx for Legal Problems" is to be reviewed, it can readily be concluded that the above impressions one may gather from the advertisements in question are accurate. The Sharon Cuneta-Gabby Concepcion example alone confirms what the advertisements suggest. Here it can be seen that criminal acts are being encouraged or committed (a bigamous marriage in Hong Kong or Las Vegas) with impunity simply because the jurisdiction of Philippine courts does not extend to the place where the crime is committed.

Even if it be assumed, *arguendo*, that the "legal support services" respondent offers do not constitute legal services as commonly understood, the advertisements in question give the impression that respondent corporation is being operated by lawyers and that it offers legal services, as earlier discussed. Thus, the only logical consequence is that, in the eyes of an ordinary newspaper reader, members of the bar themselves are encouraging or inducing the performance of acts which are contrary to law, morals, good customs and the public good, thereby destroying and demeaning the integrity of the Bar.

x x x x x x x x x

It is respectfully submitted that respondent should be enjoined from causing the publication of the advertisements in question, or any other advertisements similar thereto. It is also submitted that respondent should be prohibited from further performing or offering some of the services it presently offers, or, at the very least, from offering such services to the public in general.

The IBP is aware of the fact that providing computerized legal research, electronic data gathering, storage and retrieval, standardized legal forms, investigators for gathering of evidence, and like services will greatly benefit the legal profession and should not be stifled but instead encouraged. However, when the conduct of such business by non-members of the Bar encroaches upon the practice of law, there can be no choice but to prohibit such business.

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Admittedly, many of the services involved in the case at bar can be better performed by specialists in other fields, such as computer experts, who by reason of their having devoted time and effort exclusively to such field cannot fulfill the exacting requirements for admission to the Bar. To prohibit them from "encroaching" upon the legal profession will deny the profession of the great benefits and advantages of modern technology. Indeed, a lawyer using a computer will be doing better than a lawyer using a typewriter, even if both are (equal) in skill.

Both the Bench and the Bar, however, should be careful not to allow or tolerate the illegal practice of law in any form, not only for the protection of members of the Bar but also, and more importantly, for the protection of the public. Technological development in the profession may be encouraged without tolerating, but instead ensuring prevention of, illegal practice.

There might be nothing objectionable if respondent is allowed to perform all of its services, but only if such services are made available exclusively to members of the Bench and Bar. Respondent would then be offering technical assistance, not legal services. Alternatively, the more difficult task of carefully distinguishing between which service may be offered to the public in general and which should be made available exclusively to members of the Bar may be undertaken. This, however, may require further proceedings because of the factual considerations involved.

It must be emphasized, however, that some of respondent's services ought to be prohibited outright, such as acts which tend to suggest or induce celebration abroad of marriages which are bigamous or otherwise illegal and void under Philippine law. While respondent may not be prohibited from simply disseminating information regarding such matters, it must be required to include, in the information given, a disclaimer that it is not authorized to practice law, that certain course of action may be illegal under Philippine law, that it is not authorized or capable of rendering a legal opinion, that a lawyer should be consulted before deciding on which course of action to take, and that it cannot recommend any particular lawyer without subjecting itself to possible sanctions for illegal practice of law.

If respondent is allowed to advertise, advertising should be directed exclusively at members of the Bar, with a clear and unmistakable disclaimer that it is not authorized to practice law or perform legal services.

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The benefits of being assisted by paralegals cannot be ignored. But nobody should be allowed to represent himself as a "paralegal" for profit, without such term being clearly defined by rule or regulation, and without any adequate and effective means of regulating his activities. Also, law practice in a corporate form may prove to be advantageous to the legal profession, but before allowance of such practice may be considered, the corporation's Articles of Incorporation and By-laws must conform to each and every provision of the Code of Professional Responsibility and the Rules of Court.[5]

2. *Philippine Bar Association:*

x x x x x x x x x

Respondent asserts that it "is not engaged in the practice of law but engaged in giving legal support services to lawyers and laymen, through experienced paralegals, with the use of modern computers and electronic machines" (pars. 2 and 3, Comment). This is absurd. Unquestionably, respondent's acts of holding out itself to the public under the trade name "The Legal Clinic, Inc.," and soliciting employment for its enumerated services fall within the realm of a practice which thus yields itself to the regulatory powers of the Supreme Court. For respondent to say that it is merely engaged in paralegal work is to stretch credulity. Respondent's own commercial advertisement which announces a certain *Atty. Don Perkinson* to be handling the fields of law belies its pretense. From all indications, respondent "The Legal Clinic, Inc." is offering and rendering *legal services* through its reserve of lawyers. It has been held that the practice of law is not limited to the conduct of cases in court, but includes drawing of deeds, incorporation, rendering opinions, *and advising clients as to their legal rights and then take them to an attorney and ask the latter to look after their case in court* (See Martin, Legal and Judicial Ethics, 1948 ed., p. 39).

It is apt to recall that only *natural persons* can engage in the practice of law, and such limitation cannot be evaded by a *corporation* employing competent lawyers to practice for it. Obviously, this is the scheme or device by which respondent "The Legal Clinic, Inc." holds out itself to the public and solicits employment of its legal

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[5] Memorandum prepared by Atty. Jose A. Grapilon, Chairman, Committee on Bar Discipline, and Atty. Kenny H. Tantuico, 16-18, 27-29; *Rollo*, 414-416, 425-427.

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services. It is an *odious vehicle* for deception, especially so when the public cannot ventilate any grievance for *malpractice* against the business conduit. Precisely, the limitation of practice of law to persons who have been duly admitted as members of the Bar (Sec. 1, Rule 138, Revised Rules of Court) is to subject the members to the *discipline* of the Supreme Court. Although respondent uses its *business name*, the persons and the lawyers who act for it are subject to court discipline. The practice of law is not a profession open to all who wish to engage in it nor can it be assigned to another (See 5 Am. Jur. 270). It is a *personal right* limited to persons who have qualified themselves under the law. It follows that not only respondent but also all the persons who are acting for respondent are the persons engaged in unethical law practice.[6]

3. *Philippine Lawyers' Association*:

The Philippine Lawyers' Association's position, in answer to the issues stated herein, are, to wit:

1. The Legal Clinic is engaged in the practice of law;
2. Such practice is unauthorized;
3. The advertisements complained of are not only unethical, but also misleading and patently immoral; and
4. The Honorable Supreme Court has the power to suppress and punish the Legal Clinic and its corporate officers for its unauthorized practice of law and for its unethical, misleading and immoral advertising.

x x x x x x x x x

Respondent posits that it is not engaged in the practice of law. It claims that it merely renders "legal support services" to lawyers, litigants and the general public as enunciated in the Primary Purpose Clause of its Article(s) of Incorporation. (See pages 2 to 5 of Respondent's Comment). But its advertised services, as enumerated above, clearly and convincingly show that it is indeed engaged in law practice, albeit outside the court.

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[6] Position Paper prepared by Atty. Rafael D. Abiera, Jr., Chairman, Committee on Lawyers' Rights and Legal Ethics, and Atty. Arturo M. del Rosario, President, 5-6; *Rollo*, 241-242.

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As advertised, it offers the general public its advisory services on Persons and Family Relations Law, particularly regarding foreign divorces, annulment of marriages, secret marriages, absence and adoption; Immigration Laws, particularly on visa related problems, immigration problems; the Investment Law of the Philippines and such other related laws.

Its advertised services unmistakably require the application of the aforesaid laws, the legal principles and procedures related thereto, the legal advises based thereon and which activities call for legal training, knowledge and experience.

Applying the test laid down by the Court in the aforecited Agrava Case, the activities of respondent fall squarely and are embraced in what lawyers and laymen equally term as "the practice of law."[7]

4. *U.P. Women Lawyers' Circle*:

In resolving the issues before this Honorable Court, paramount consideration should be given to the protection of the general public from the danger of being exploited by unqualified persons or entities who may be engaged in the practice of law.

At present, becoming a lawyer requires one to take a rigorous four-year course of study on top of a four-year bachelor of arts or sciences course and then to take and pass the bar examinations. Only then, is a lawyer qualified to practice law.

While the use of a paralegal is sanctioned in many jurisdictions as an aid to the administration of justice, there are in those jurisdictions, courses of study and/or standards which would qualify these paralegals to deal with the general public as such. While it may now be the opportune time to establish these courses of study and/or standards, the fact remains that at present, these do not exist in the Philippines. In the meantime, this Honorable Court may decide to take measures to protect the general public from being exploited by those who may be dealing with the general public in the guise of being "paralegals" without being qualified to do so.

In the same manner, the general public should also be protected from the dangers which may be brought about by advertising of legal services. While it appears that lawyers are prohibited under

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[7] Position Paper prepared by Atty. Lorenzo Sumulong, President, and Atty. Mariano M. Magsalin, Vice-President, 2, 4-5; *Rollo*, 93, 95-96.

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the present Code of Professional Responsibility from advertising, it appears in the instant case that legal services are being advertised not by lawyers but by an entity staffed by "paralegals." Clearly, measures should be taken to protect the general public from falling prey to those who advertise legal services without being qualified to offer such services."[8]

A perusal of the questioned advertisements of Respondent, however, seems to give the impression that information regarding validity of marriages, divorce, annulment of marriage, immigration, visa extensions, declaration of absence, adoption and foreign investment, which are in essence, legal matters, will be given to them if they avail of its services. The Respondent's name — The Legal Clinic, Inc. — does not help matters. It gives the impression again that Respondent will or can cure the legal problems brought to them. Assuming that Respondent is, as claimed, staffed purely by paralegals, it also gives the misleading impression that there are lawyers involved in The Legal Clinic, Inc., as there are doctors in any medical clinic, when only "paralegals" are involved in The Legal Clinic, Inc.

Respondent's allegations are further belied by the very admissions of its President and majority stockholder, Atty. Nogales, who gave an insight on the structure and main purpose of Respondent corporation in the aforementioned "Starweek" article."[9]

5. *Women Lawyer's Association of the Philippines:*

Annexes "A" and "B" of the petition are clearly advertisements to solicit cases for the purpose of gain which, as provided for under the above cited law, (are) illegal and against the Code of Professional Responsibility of lawyers in this country.

Annex "A" of the petition is not only illegal in that it is an advertisement to solicit cases, but it is illegal in that in bold letters it announces that the Legal Clinic, Inc., could work out/cause the celebration of a secret marriage which is not only illegal but immoral in this country. While it is advertised that one has to go to said agency and pay ₱560 for a valid marriage it is certainly fooling the public for valid marriages in the Philippines are solemnized only

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[8] Position Paper prepared by Atty. Victoria C. de los Reyes, 1-2; *Rollo*, 105-106.

[9] Memorandum prepared by Atty. Victoria C. de los Reyes, 10-11; *Rollo*, 370-371.

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by officers authorized to do so under the law. And to employ an agency for said purpose of contracting marriage is not necessary.

No amount of reasoning that in the USA, Canada and other countries the trend is towards allowing lawyers to advertise their special skills to enable people to obtain from qualified practitioners legal services for their particular needs can justify the use of advertisements such as are the subject matter of this petition, for one (cannot) justify an illegal act even by whatever merit the illegal act may serve. The law has yet to be amended so that such as act could become justifiable.

We submit further that these advertisements that seem to project that secret marriages and divorce are possible in this country for a *fee*, when in fact it is not so, are highly reprehensible.

It would encourage people to consult this clinic about how they could go about having a secret marriage here, when it cannot nor should ever be attempted, and seek advice on divorce, where in this country there is none, except under the Code of Muslim Personal Laws in the Philippines. It is also against good morals and is deceitful because it falsely represents to the public to be able to do that which by our laws cannot be done (and) by our Code of Morals should not be done.

In the case (of) *In re Tagorda*, 53 Phil. 37, the Supreme Court held that solicitation for clients by an attorney by circulars of advertisements, is unprofessional and offenses of this character justify permanent elimination from the Bar.[10]

6. *Federacion International de Abogadas*:

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1.7 That entities admittedly not engaged in the practice of law, such as management consultancy firms or travel agencies, whether run by lawyers or not, perform the services rendered by Respondent does not necessarily lead to the conclusion that Respondent is not unlawfully practicing law. In the same vein, however, the fact that the business of respondent (assuming it can be engaged in independently of the practice of law) involves knowledge of the law does not necessarily make respondent guilty of unlawful practice of law.

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[10] Position Paper prepared by Atty. Leticia E. Sablan, Officer-in-Charge, WLAP Free Legal Aid Clinic, 1-2; *Rollo*, 169-170.

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"x x x Of necessity, no one x x x acting as a consultant can render effective service unless he is familiar with such statutes and regulations. He must be careful not to suggest a course of conduct which the law forbids. It seems x x x clear that (the consultant's) knowledge of the law, and his use of that knowledge as a factor in determining what measures he shall recommend, do not constitute the practice of law x x x. It is not only presumed that all men know the law, but it is a fact that most men have considerable acquaintance with the broad features of the law x x x. Our knowledge of the law — accurate or inaccurate — moulds our conduct not only when we are acting for ourselves, but when we are serving others. Bankers, liquor dealers and laymen generally possess rather precise knowledge of the laws touching their particular business or profession. A good example is the architect, who must be familiar with zoning, building and fire prevention codes, factory and tenement house statutes, and who draws plans and specifications in harmony with the law. This is not practicing law.

"But suppose the architect, asked by his client to omit a fire tower, replies that it is required by the statute. Or the industrial relations expert cites, in support of some measure that he recommends, a decision of the National Labor Relations Board. Are they practicing law? In my opinion, *they are not, provided no separate fee is charged for the legal advice or information, and the legal question is subordinate and incidental to a major non-legal problem*.

"*It is largely a matter of degree and of custom*.

"If it were usual for one intending to erect a building on his land to engage a lawyer to advise him and the architect in respect to the building code and the like, then an architect who performed this function would probably be considered to be trespassing on territory reserved for licensed attorneys. Likewise, if the industrial relations field had been pre-empted by lawyers, or custom placed a lawyer always at the elbow of the lay personnel man. But this is not the case. The most important body of industrial relations experts are the officers and business agents of the labor unions and few of them are lawyers. Among the larger corporate employers, it has been the practice for some years to delegate special responsibility in employee matters to a management group chosen for their practical knowledge and skill in such matters, and without

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regard to legal training or lack of it. More recently, consultants like the defendant have tendered to the smaller employers the same service that the larger employers get from their own specialized staff.

"The handling of industrial relations is growing into a recognized profession for which appropriate courses are offered by our leading universities. The court should be very cautious about declaring [that] a widespread, well-established method of conducting business is unlawful, or that the considerable class of men who customarily perform a certain function have no right to do so, or that the technical education given by our schools cannot be used by the graduates in their business.

"*In determining whether a man is practicing law, we should consider his work for any particular client or customer, as a whole*. I can imagine defendant being engaged primarily to advise as to the law defining his client's obligations to his employees, to guide his client along the path charted by law. This, of course, would be the practice of the law. But such is not the fact in the case before me. Defendant's primary efforts are along economic and psychological lines. The law only provides the frame within which he must work, just as the zoning code limits the kind of building the architect may plan. *The incidental legal advice or information defendant may give, does not transform his activities into the practice of law.* Let me add that *if, even as a minor feature of his work, he performed services which are customarily reserved to members of the bar, he would be practicing law*. For instance, if as part of a welfare program, he drew employees' wills.

"Another branch of defendant's work is the representation of the employer in the adjustment of grievances and in collective bargaining, with or without a mediator. This is not *per se* the practice of law. Anyone may use an agent for negotiations and may select an agent particularly skilled in the subject under discussion, and the person appointed is free to accept the employment whether or not he is a member of the bar. Here, however, there may be an exception where the business turns on a question of law. Most real estate sales are negotiated by brokers who are not lawyers. But if the value of the land depends on a disputed right-of-way and the principal role of the negotiator is to assess the probable outcome of the dispute and persuade the opposite party to the same opinion, then it may be that

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only a lawyer can accept the assignment. Or if a controversy between an employer and his men grows from differing interpretations of a contract, or of a statute, it is quite likely that defendant should not handle it. But I need not reach a definite conclusion here, since the situation is not presented by the proofs.

"Defendant also appears to represent the employer before administrative agencies of the federal government, especially before trial examiners of the National Labor Relations Board. An agency of the federal government, acting by virtue of an authority granted by the Congress, may regulate the representation of parties before such agency. The State of New Jersey is without power to interfere with such determination or to forbid representation before the agency by one whom the agency admits. The rules of the National Labor Relations Board give to a party the right to appear `in person, or by counsel, or by other representative.' Rules and Regulations, September 11th, 1946, S. 203.31. `Counsel' here means a licensed attorney, and `other representative' one not a lawyer. In this phase of his work, defendant may lawfully do whatever the Labor Board allows, even arguing questions purely legal." (*Auerbacher v. Wood*, 53 A. 2d 800, cited in Statsky, Introduction to Paralegalism [1974], at pp. 154-156.).

1.8. From the foregoing, it can be said that a person engaged in a lawful calling (which may involve knowledge of the law) is not engaged in the practice of law provided that:

(a) The legal question is subordinate and incidental to a major non-legal problem;

(b) The services performed are not customarily reserved to members of the bar;

(c) No separate fee is charged for the legal advice or information.

All these must be considered in relation to the work for any particular client as a whole.

1.9. If the person involved is both lawyer and non-lawyer, the Code of Professional Responsibility succinctly states the rule of conduct:

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"Rule 15.08 — A lawyer who is engaged in another profession or occupation concurrently with the practice of law shall make clear to his client whether he is acting as a lawyer or in another capacity."

1.10. In the present case, the Legal Clinic appears to render wedding services (See Annex "A", Petition). Services on routine, straightforward marriages, like securing a marriage license, and making arrangements with a priest or a judge, may not constitute practice of law. However, if the problem is as complicated as that described in Rx for Legal Problems" on the Sharon Cuneta-Gabby Concepcion-Richard Gomez case, then what may be involved is actually the practice of law. If a non-lawyer, such as the Legal Clinic, renders such services, then it is engaged in the unauthorized practice of law.

1.11. The Legal Clinic also appears to give information on divorce, absence, annulment of marriage and visas (See Annexes "A" and "B", Petition). Purely giving informational materials may not constitute practice of law. The business is similar to that of a bookstore where the customer buys materials on the subject and determines by himself what courses of action to take.

It is not entirely improbable, however, that aside from purely giving information, the Legal Clinic's paralegals may apply the law to the particular problem of the client, and give legal advice. Such would constitute unauthorized practice of law.

"It cannot be claimed that the publication of a legal text which purports to say what the law is amounts to legal practice. And the mere fact that the principles or rules stated in the text may be accepted by a particular reader as a solution to his problem does not affect this. x x x Apparently it is urged that the conjoining of these two, that is, the text and the forms, with advice as to how the forms should be filled out, constitutes the unlawful practice of law. But that is the situation with many approved and accepted texts. Dacey's book is sold to the public at large. *There is no personal contact or relationship with a particular individual. Nor does there exist that relation of confidence and trust so necessary to the status of attorney and client. THIS IS THE ESSENTIAL OF LEGAL PRACTICE — THE REPRESENTATION AND ADVISING OF A PARTICULAR PERSON IN A PARTICULAR SITUATION.* At most the book assumes to offer general advice on common

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problems, and does not purport to give personal advice on a specific problem peculiar to a designated or readily identified person. Similarly the defendant's publication does not purport `to give personal advice on a specific problem peculiar to a designated or readily identified person in a particular situation — in the publication and sale of the kits, such publication and sale did not constitute the unlawful practice of law x x x. There being no legal impediment under the statute to the sale of the kit, there was no proper basis for the injunction against defendant maintaining an office for the purpose of selling to persons seeking a divorce, separation, annulment or separation agreement any printed material or writings relating to matrimonial law or the prohibition in the memorandum of modification of the judgment against defendant having an interest in any publishing house publishing his manuscript on divorce and against his having any personal contact with any prospective purchaser. *The record does fully support, however, the finding that for the charge of $75 or $100 for the kit, the defendant gave legal advice in the course of personal contacts concerning particular problems which might arise in the preparation and presentation of the purchaser's asserted matrimonial cause of action or pursuit of other legal remedies and assistance in the preparation of necessary documents (The injunction therefore sought to) enjoin conduct constituting the practice of law, particularly with reference to the giving of advice and counsel by the defendant relating to specific problems of particular individuals in connection with a divorce, separation, annulment of separation agreement sought and should be affirmed.*" (*State v. Winder,* 348, NYS 2d 270 [1973], cited in Statsky, *supra* at p. 101.)

1.12. Respondent, of course, states that its services are "strictly non-diagnostic, non-advisory." It is not controverted, however, that if the services "involve giving legal advice or counselling," such would constitute practice of law (Comment, par. 6.2). It is in this light that FIDA submits that a factual inquiry may be necessary for the judicious disposition of this case.

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2.10. Annex "A" may be ethically objectionable in that it can give the impression (or perpetuate the wrong notion) that there is a secret marriage. With all the solemnities, formalities and other

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requisites of marriages (See Articles 2, *et seq*., Family Code), no Philippine marriage can be secret.

2.11. Annex "B" may likewise be ethically objectionable. The second paragraph thereof (which is not necessarily related to the first paragraph) fails to state the limitation that only "paralegal services" or "legal support services", and not legal services, are available."[11]

A prefatory discussion on the meaning of the phrase "practice of law" becomes exigent for a proper determination of the issues raised by the petition at bar. On this score, we note that the clause "practice of law" has long been the subject of judicial construction and interpretation. The courts have laid down general principles and doctrines explaining the meaning and scope of the term, some of which we now take into account.

Practice of law means any activity, in or out of court, which requires the application of law, legal procedures, knowledge, training and experience. To engage in the practice of law is to perform those acts which are characteristic of the profession. Generally, to practice law is to give advice or render any kind of service that involves legal knowledge or skill.[12]

The practice of law is not limited to the conduct of cases in court. It includes legal advice and counsel, and the preparation of legal instruments and contracts by which legal rights are secured, although such matter may or may not be pending in a court.[13]

In the practice of his profession, a licensed attorney at law generally engages in three principal types of professional activity: legal advice and instructions to clients to inform them of their rights and obligations, preparation for clients of documents requiring knowledge of legal principles not possessed by ordinary

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[11] Position Paper prepared by Atty. Lily C. Limpe, President, and Atty. Barbara Anne C. Migallos, 8-12, 23-24; *Rollo*, 139-143, 154-155.

[12] Annotation: 111 ALR 23.

[13] *Howton vs. Morrow*, 269 Ky. 1.

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layman, and appearance for clients before public tribunals which possess power and authority to determine rights of life, liberty, and property according to law, inorder to assist in proper interpretation and enforcement of law.[14]

When a person participates in a trial and advertises himself as a lawyer, he is in the practice of law.[15] One who confers with clients, advises them as to their legal rights and then takes the business to an attorney and asks the latter to look after the case in court, is also practicing law.[16] Giving advice for compensation regarding the legal status and rights of another and the conduct with respect thereto constitutes a practice of law.[17] One who renders an opinion as to the proper interpretation of a statute, and receives pay for it, is, to that extent, practicing law.[18]

In the recent case of *Cayetano vs. Monsod*,[19] after citing the doctrines in several cases, we laid down the test to determine whether certain acts constitute "practice of law," thus:

Black defines "practice of law" as:

> "The rendition of services requiring the knowledge and the application of legal principles and technique to serve the interest of another with his consent. It is not limited to appearing in court, or advising and assisting in the conduct of litigation, but embraces the preparation of pleadings, and other papers incident to actions and special proceedings, conveyancing, the preparation of legal instruments of all kinds, and the giving of all legal advice to clients. It embraces all advice to clients and all actions taken for them in matters connected with the law."

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[14] *West Virginia State Bar vs. Earley*, 109 S.E. 2d 420, 144 W. Va. 504; *Rhode Is. Bar Assoc. v. Automobile Service Assoc.* (R.I.) 179 A. 139, 144.

[15] *People vs. Castleman*, 88 Colo. 229.

[16] *Depew, et al. vs. Witchita Assn. of Credit Men., Inc.*, 142 Kan. 403.

[17] *Fitchette vs. Taylor*, 94 ALR 356.

[18] *Mandelaum vs. Gilbert & Barker Mfg. Co.*, 290 NYS 46218.

[19] 201 SCRA 210 (1991).

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The practice of law is not limited to the conduct of cases in court. (*Land Title Abstract and Trust Co. v. Dworken*, 129 Ohio St. 23, 193 N.E. 650). A person is also considered to be in the practice of law when he:

> "x x x for valuable consideration engages in the business of advising persons, firms, associations or corporations as to their rights under the law, or appears in a representative capacity as an advocate in proceedings, pending or prospective, before any court, commissioner, referee, board, body, committee, or commission constituted by law or authorized to settle controversies and there, in such representative capacity, performs any act or acts for the purpose of obtaining or defending the rights of their clients under the law. Otherwise stated, one who, in a representative capacity, engages in the business of advising clients as to their rights under the law, or while so engaged performs any act or acts either in court or outside of court for that purpose, is engaged in the practice of law. (*State ex. rel. Mckittrick v. C.S. Dudley and Co*., 102 S.W. 2d 895, 340 Mo. 852)."

This Court, in the case of *Philippine Lawyers Association v. Agrava* (105 Phil. 173, 176-177), stated:

> "The practice of law is not limited to the conduct of cases or litigation in court; it embraces the preparation of pleadings and other papers incident to actions and special proceedings, the management of, such actions and proceedings on behalf of clients before judges and courts, and in addition, conveying. In general, all advice to clients, and all action taken for them in matters connected with the law incorporation services, assessment and condemnation services contemplating an appearance before a judicial body, the foreclosure of a mortgage, enforcement of a creditor's claim in bankruptcy and insolvency proceedings, and conducting proceedings in attachment, and in matters of estate and guardianship have been held to constitute law practice, as do the preparation and drafting of legal instruments, where the work done involves the determination by the trained legal mind of the legal effect of facts and conditions. (5 Am. Jr. p. 262, 263).
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> "Practice of law under modern conditions consists in no small part of work performed outside of any court and having no immediate relation to proceedings in court. It embraces

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> conveyancing, the giving of legal advice on a large variety of subjects, and the preparation and execution of legal instruments covering an extensive field of business and trust relations and other affairs. Although these transactions may have no direct connection with court proceedings, they are always subject to become involved in litigation. They require in many aspects a high degree of legal skill, a wide experience with men and affairs, and great capacity for adaptation to difficult and complex situations. These customary functions of an attorney or counselor at law bear an intimate relation to the administration of justice by the courts. No valid distinction, so far as concerns the question set forth in the order, can be drawn between that part of the work of the lawyer which involves appearance in court and that part which involves advice and drafting of instruments in his office. It is of importance to the welfare of the public that these manifold customary functions be performed by persons possessed of adequate learning and skill, of sound moral character, and acting at all times under the heavy trust obligations to clients which rests upon all attorneys. (Moran, Comments on the Rules of Court, Vol. 3 [1973 ed.], pp. 665-666, citing *In Re Opinion of the Justices* [Mass.], 194 N.E. 313, quoted in *Rhode Is. Bar Assoc. v. Automobile Service Assoc.* [R.I.] 179 A. 139, 144)."

The practice of law, therefore, covers a wide range of activities in and out of court. Applying the aforementioned criteria to the case at bar, we agree with the perceptive findings and observations of the aforestated bar associations that the activities of respondent, as advertised, constitute "practice of law."

The contention of respondent that it merely offers legal support services can neither be seriously considered nor sustained. Said proposition is belied by respondent's own description of the services it has been offering, to wit:

> "Legal support services basically consist of giving ready information by trained paralegals to laymen and lawyers, which are strictly non-diagnostic, non-advisory, through the extensive use of computers and modern information technology in the gathering, processing, storage, transmission and reproduction of information and communication, such as computerized legal research; encoding and reproduction of documents and pleadings prepared by laymen or

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lawyers; document search; evidence gathering; locating parties or witnesses to a case; fact finding investigations; and assistance to laymen in need of basic institutional services from government or non-government agencies, like birth, marriage, property, or business registrations; educational or employment records or certifications, obtaining documentation like clearances, passports, local or foreign visas; giving information about laws of other countries that they may find useful, like foreign divorce, marriage or adoption laws that they can avail of preparatory to emigration to that foreign country, and other matters that do not involve representation of clients in court; designing and installing computer systems, programs, or software for the efficient management of law offices, corporate legal departments, courts, and other entities engaged in dispensing or administering legal services."[20]

While some of the services being offered by respondent corporation merely involve mechanical and technical know-how, such as the installation of computer systems and programs for the efficient management of law offices, or the computerization of research aids and materials, these will not suffice to justify an exception to the general rule.

What is palpably clear is that respondent corporation gives out legal information to laymen and lawyers. Its contention that such function is non-advisory and non-diagnostic is more apparent than real. In providing information, for example, about foreign laws on marriage, divorce and adoption, it strains the credulity of this Court that all that respondent corporation will simply do is look for the law, furnish a copy thereof to the client, and stop there as if it were merely a bookstore. With its attorneys and so called paralegals, it will necessarily have to explain to the client the intricacies of the law and advise him or her on the proper course of action to be taken as may be provided for by said law. That is what its advertisements represent and for which services it will consequently charge and be paid. That activity falls squarely within the jurisprudential definition of "practice of law." Such a conclusion will not be altered by the fact that respondent corporation does not represent clients in court since

[20] Comment of Respondent, 3; *Rollo*, 15.

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law practice, as the weight of authority holds, is not limited merely to court appearances but extends to legal research, giving legal advice, contract drafting, and so forth.

The aforesaid conclusion is further strengthened by an article published in the January 13, 1991 issue of the *Starweek/The Sunday Magazine of the Philippine Star*, entitled "Rx for Legal Problems," where an insight into the structure, main purpose and operations of respondent corporation was given by its own "proprietor," Atty. Rogelio P. Nogales:

> This is the kind of business that is transacted everyday at The Legal Clinic, with offices on the seventh floor of the Victoria Building along U.N. Avenue in Manila. No matter what the client's problem, and even if it is as complicated as the Cuneta-Concepcion domestic situation, Atty. Nogales and his staff of lawyers, who, like doctors, are "specialists" in various fields, can take care of it. The Legal Clinic, Inc. has specialists in taxation and criminal law, medico-legal problems, labor, litigation and family law. These specialists are backed up by a battery of paralegals, counsellors and attorneys.
>
> Atty. Nogales set up The Legal Clinic in 1984. Inspired by the trend in the medical field toward specialization, it caters to clients who cannot afford the services of the big law firms.
>
> The Legal Clinic has regular and walk-in clients. "When they come, we start by analyzing the problem. That's what doctors do also. They ask you how you contracted what's bothering you, they take your temperature, they observe you for the symptoms, and so on. That's how we operate, too. And once the problem has been categorized, then it's referred to one of our specialists."
>
> There are cases which do not, in medical terms, require surgery or follow-up treatment. These The Legal Clinic disposes of in a matter of minutes. "Things like preparing a simple deed of sale or an affidavit of loss can be taken care of by our staff or, if this were a hospital, the residents or the interns. We can take care of these matters on a while you wait basis. Again, kung baga sa ospital, out-patient, hindi kailangang ma-confine. It's just like a common cold or diarrhea," explains Atty. Nogales.
>
> Those cases which require more extensive "treatment" are dealt with accordingly. "If you had a rich realtive who died and named you her sole heir, and you stand to inherit millions of pesos of property,

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we would refer you to a specialist in taxation. There would be real estate taxes and arrears which would need to be put in order, and your relative is even taxed by the state for the right to transfer her property, and only a specialist in taxation would be properly trained to deal with that problem. Now, if there were other heirs contesting your rich relative's will, then you would need a litigator, who knows how to arrange the problem for presentation in court, and gather evidence to support the case."[21]

That fact that the corporation employs paralegals to carry out its services is not controlling. What is important is that it is engaged in the practice of law by virtue of the nature of the services it renders which thereby brings it within the ambit of the statutory prohibitions against the advertisements which it has caused to be published and are now assailed in this proceeding.

Further, as correctly and appropriately pointed out by the U.P. WILOCI, said reported facts sufficiently establish that the main purpose of respondent is to serve as a one-stop-shop of sorts for various legal problems wherein a client may avail of legal services from simple documentation to complex litigation and corporate undertakings. Most of these services are undoubtedly beyond the domain of paralegals, but rather, are exclusive functions of lawyers engaged in the practice of law.[22]

It should be noted that in our jurisdiction the services being offered by private respondent which constitute practice of law cannot be performed by paralegals. Only a person duly admitted as a member of the bar, or hereafter admitted as such in accordance with the provisions of the Rules of Court, and who is in good and regular standing, is entitled to practice law.[23]

Public policy requires that the practice of law be limited to those individuals found duly qualified in education and character. The permissive right conferred on the lawyers is an individual

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[21] *Rollo*, 130-131.

[22] Memorandum of U.P. WILOCI, 12-13; *Rollo*, 372-373.

[23] Sec. 1, Rule 138, Rules of Court.

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and limited privilege subject to withdrawal if he fails to maintain proper standards of moral and professional conduct. The purpose is to protect the public, the court, the client and the bar from the incompetence or dishonesty of those unlicensed to practice law and not subject to the disciplinary control of the court.[24]

The same rule is observed in the American jurisdiction wherefrom respondent would wish to draw support for his thesis. The doctrines there also stress that the practice of law is limited to those who meet the requirements for, and have been admitted to, the bar, and various statutes or rules specifically so provide.[25] The practice of law is not a lawful business except for members of the bar who have complied with all the conditions required by statute and the rules of court. Only those persons are allowed to practice law who, by reason of attainments previously acquired through education and study, have been recognized by the courts as possessing profound knowledge of legal science entitling them to advise, counsel with, protect, or defend the rights, claims, or liabilities of their clients, with respect to the construction, interpretation, operation and effect of law.[26] The justification for excluding from the practice of law those not admitted to the bar is found, not in the protection of the bar from competition, but in the protection of the public from being advised and represented in legal matters by incompetent and unreliable persons over whom the judicial department can exercise little control.[27]

We have to necessarily and definitely reject respondent's position that the concept in the United States of paralegals as an occupation separate from the law profession be adopted in this jurisdiction. Whatever may be its merits, respondent cannot but be aware that this should first be a matter for judicial rules

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[24] *Phil. Ass'n. of Free Labor Unions, et al. vs. Binalbagan-Isabela Sugar Co., et al.*, 42 SCRA 302 (1971).

[25] 7 C.J.S., Attorney & Client, 863, 864.

[26] *Mounier vs. Regcinh,* 170 So. 567.

[27] *Lowell Bar Ass'n. vs. Loeb,* 52 N.E. 2d 27, 315 Mass. 176; 7 C.J.S., Attorney & Client 64, 865.

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or legislative action, and not of unilateral adoption as it has done.

Paralegals in the United States are trained professionals. As admitted by respondent, there are schools and universities there which offer studies and degrees in paralegal education, while there are none in the Philippines.[28] As the concept of the "paralegal" or "legal assistant" evolved in the United States, standards and guidelines also evolved to protect the general public. One of the major standards or guidelines was developed by the American Bar Association which set up Guidelines for the Approval of Legal Assistant Education Programs (1973). Legislation has even been proposed to certify legal assistants. There are also associations of paralegals in the United States with their own code of professional ethics, such as the National Association of Legal Assistants, Inc. and the American Paralegal Association.[29]

In the Philippines, we still have a restricted concept and limited acceptance of what may be considered, as paralegal service. As pointed out by FIDA, some persons not duly licensed to practice law are or have been allowed limited representation in behalf of another or to render legal services, but such allowable services are limited in scope and extent by the law, rules or regulations granting permission therefor.[30]

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[28] Comment of Respondent, 2; *Rollo*, 14.

[29] Position Paper, U.P. Women Lawyers' Circle (WILOCI), 11-12, citing Statsky, Introduction to Paralegalism, 214-224, West Publishing Co. (1974) and Shayne, The Paralegal Profession, Oceana Publications, 1977, Appendix II & III; *Rollo*, 116-117.

[30] Illustrations: (a) A law student who has successfully completed his third year of the regular four-year prescribed law curriculum and is enrolled in a recognized law school's clinical legal education program approved by the Supreme Court (Rule 138-A, Rules of Court);

(b) An official or other person appointed or designated in accordance with law to appear for the Government of the Philippines in a case in which the government has an interest (Sec. 33, Rule 138, *id*.);

(c) An agent or friend who aids a party-litigant in a municipal court for the purpose of conducting the litigation (Sec. 34, Rule 138; *id*.);

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Accordingly, we have adopted the American judicial policy that, in the absence of constitutional or statutory authority, a person who has not been admitted as an attorney cannot practice law for the proper administration of justice cannot be hindered by the unwarranted intrusion of an unauthorized and unskilled person into the practice of law.[31] That policy should continue to be one of encouraging persons who are unsure of their legal rights and remedies to seek legal assistance only from persons licensed to practice law in the state.[32]

Anent the issue on the validity of the questioned advertisements, the Code of Professional Responsibility provides that a lawyer in making known his legal services shall use only true, honest, fair, dignified and objective information or statement of facts.[33]

(d) A person, resident of the province and of good repute for probity and ability, who is appointed counsel *de oficio* to defend the accused in localities where members of the bar are not available (Sec. 4, Rule 116, *id*.);

(e) Persons registered or specially recognized to practice in the Philippine Patent Office (now known as the Bureau of Patents, Trademarks and Technology Transfer) in trademark, service mark and trade name cases (Rule 23, Rules of Practice in Trademark Cases);

(f) A non-lawyer who may appear before the National Labor Relations Commission or any Labor Arbiter only if (1) he represents himself as a party to the case; (2) he represents an organization or its members, provided that he shall be made to present written proof that he is properly authorized; or (3) he is a duly-accredited member of any legal aid office duly recognized by the Department of Justice or the Integrated Bar of the Philippines in cases referred thereto by the latter (New Rules of Procedure of the National Labor Relations Commission);

(g) An agent, not an attorney, representing the lot owner or claimant in a case falling under the Cadastral Act (Sec. 9, Act No. 2259); and

(h) Notaries public for municipalities where completion and passing the studies of law in a reputable university or school of law is deemed sufficient qualification for appointment (Sec. 233, Administrative Code of 1917). See *Rollo*, 144-145.

[31] 7 C.J.S., Attorney & Client, 866; *Johnstown Coal & Coke Co. of New York vs. U.S.*, 102 Ct. Cl. 285.

[32] *Florida Bar vs. Brumbaugth*, 355 So. 2d 1186.

[33] Canon 3, *Code of Professional Responsibility*.

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He is not supposed to use or permit the use of any false, fraudulent, misleading, deceptive, undignified, self-laudatory or unfair statement or claim regarding his qualifications or legal services.[34] Nor shall he pay or give something of value to representatives of the mass media in anticipation of, or in return for, publicity to attract legal business.[35] Prior to the adoption of the Code of Professional Responsibility, the Canons of Professional Ethics had also warned that lawyers should not resort to indirect advertisements for professional employment, such as furnishing or inspiring newspaper comments, or procuring his photograph to be published in connection with causes in which the lawyer has been or is engaged or concerning the manner of their conduct, the magnitude of the interest involved, the importance of the lawyer's position, and all other like self-laudation.[36]

The standards of the legal profession condemn the lawyer's advertisement of his talents. A lawyer cannot, without violating the ethics of his profession, advertise his talents or skills as in a manner similar to a merchant advertising his goods.[37] The proscription against advertising of legal services or solicitation of legal business rests on the fundamental postulate that the practice of law is a profession. Thus, in the case of *The Director of Religious Affairs vs. Estanislao R. Bavot*[38] an advertisement, similar to those of respondent which are involved in the present proceeding,[39] was held to constitute improper advertising or solicitation.

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[34] Rule 3.01, *id.*

[35] Rule 3.04, *id.*

[36] Canon 27, Canons of Professional Ethics.

[37] *People vs. Smith*, 93 Am. St. Rep. 206.

[38] 74 Phil. 579 (1944).

[39] The advertisement in said case was as follows: "Marriage license promptly secured thru our assistance & the annoyance of delay or publicity avoided if desired, and marriage arranged to wishes of parties. Consultation on any matter free for the poor. Everything confidential.

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The pertinent part of the decision therein reads:

> It is undeniable that the advertisement in question was a flagrant violation by the respondent of the ethics of his profession, it being a brazen solicitation of business from the public. Section 25 of Rule 127 expressly provides among other things that "the practice of soliciting cases at law for the purpose of gain, either personally or thru paid agents or brokers, constitutes malpractice." It is highly unethical for an attorney to advertise his talents or skill as a merchant advertises his wares. Law is a profession and not a trade. The lawyer degrades himself and his profession who stoops to and adopts the practices of mercantilism by advertising his services or offering them to the public. As a member of the bar, he defiles the temple of justice with mercenary activities as the money-changers of old defiled the temple of Jehovah. The most worthy and effective advertisement possible, even for a young lawyer, *** is the establishment of a well-merited reputation for professional capacity and fidelity to trust. This cannot be forced but must be the outcome of character and conduct." (Canon 27, Code of Ethics.)

We repeat, the canons of the profession tell us that the best advertising possible for a lawyer is a well-merited reputation for professional capacity and fidelity to trust, which must be earned as the outcome of character and conduct. Good and efficient service to a client as well as to the community has a way of publicizing itself and catching public attention. That publicity is a normal by-product of effective service which is right and proper. A good and reputable lawyer needs no artificial stimulus to generate it and to magnify his success. He easily sees the difference between a normal by-product of able service and the unwholesome result of propaganda.[40]

Of course, not all types of advertising or solicitation are prohibited. The canons of the profession enumerate exceptions to the rule against advertising or solicitation and define the extent to which they may be undertaken. The exceptions are of two broad categories, namely, those which are expressly allowed and those which are necessarily implied from the restrictions.[41]

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[40] Agpalo, *Legal Ethics, Fourth Edition* (1989), 79-80.

[41] *Op. cit.*, 80.

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The first of such exceptions is the publication in reputable law lists, in a manner consistent with the standards of conduct imposed by the canons, of brief biographical and informative data. "Such data must not be misleading and may include only a statement of the lawyer's name and the names of his professional associates; addresses, telephone numbers, cable addresses; branches of law practiced; date and place of birth and admission to the bar; schools attended with dates of graduation, degrees and other educational distinction; public or quasi-public offices; posts of honor; legal authorships; legal teaching positions; membership and offices in bar associations and committees thereof, in legal and scientific societies and legal fraternities; the fact of listings in other reputable law lists; the names and addresses of references; and, with their written consent, the names of clients regularly represented."[42]

The law list must be a reputable law list published primarily for that purpose; it cannot be a mere supplemental feature of a paper, magazine, trade journal or periodical which is published principally for other purposes. For that reason, a lawyer may not properly publish his brief biographical and informative data in a daily paper, magazine, trade journal or society program. Nor may a lawyer permit his name to be published in a law list the conduct, management or contents of which are calculated or likely to deceive or injure the public or the bar, or to lower the dignity or standing of the profession.[43]

The use of an ordinary simple professional card is also permitted. The card may contain only a statement of his name, the name of the law firm which he is connected with, address, telephone number and special branch of law practiced. The publication of a simple announcement of the opening of a law firm or of changes in the partnership, associates, firm name or office address, being for the convenience of the profession, is

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[42] *Op. cit.*, 80, citing Canon 27, Canons of Professional Ethics.

[43] *Op. cit.*, 80, 81, citing A.B.A. Op. 69 (Mar. 19, 1932); A.B.A. Op. 133 (Mar. 13, 1935); A.B.A. Op. 24 (Jan. 24, 1930); and Canon 43, Canons of Professional Ethics.

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not objectionable. He may likewise have his name listed in a telephone directory but not under a designation of special branch of law.[44]

Verily, taking into consideration the nature and contents of the advertisements for which respondent is being taken to task, which even includes a quotation of the fees charged by said respondent corporation for services rendered, we find and so hold that the time definitely do not and conclusively cannot fall under any of the above-mentioned exceptions.

The ruling in the case of *Bates, et al. vs. State Bar of Arizona,*[45] which is repeatedly invoked and constitutes the justification relied upon by respondent, is obviously not applicable to the case at bar. Foremost is the fact that the disciplinary rule involved in said case explicitly allows a lawyer, as an exception to the prohibition against advertisements by lawyers, to publish a statement of legal fees for an initial consultation or the availability upon request of a written schedule of fees or an estimate of the fee to be charged for the specific services. No such exception is provided for, expressly or impliedly, whether in our former Canons of Professional Ethics or the present Code of Professional Responsibility. Besides, even the disciplinary rule in the *Bates* case contains a proviso that the exceptions stated therein are "not applicable in any state unless and until it is implemented by such authority in that state."[46] This goes to show that an exception to the general rule, such as that being invoked by herein respondent, can be made only if and when the canons expressly provide for such an exception. Otherwise, the prohibition stands, as in the case at bar.

It bears mention that in a survey conducted by the American Bar Association after the decision in *Bates*, on the attitude of

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[44] *Op. cit.*, 81, citing A.B.A. Op. 11 (May 11, 1927); A.B.A. Op. 24 (Jan. 24, 1930); A.B.A. Ops. 53 (Dec. 14, 1931), 123 (Dec. 14, 1934), (July 12, 1941), 241 (Feb. 21, 1942), 284 (Aug. 1951); and 286 (Sept. 25, 1952).

[45] *Supra*, Fn 2.

[46] *Id.*, 810, 825.

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the public about lawyers after viewing television commercials, it was found that public opinion dropped significantly[47] with respect to these characteristics of lawyers:

Trustworthy	- - - - - - - - - - - - - - - -	from 71% to 14%
Professional	- - - - - - - - - - - - - - - -	from 71% to 14%
Honest	- - - - - - - - - - - - - - - -	from 65% to 14%
Dignified	- - - - - - - - - - - - - - - -	from 45% to 14%

Secondly, it is our firm belief that with the present situation of our legal and judicial systems, to allow the publication of advertisements of the kind used by respondent would only serve to aggravate what is already a deteriorating public opinion of the legal profession whose integrity has consistently been under attack lately by media and the community in general. At this point in time, it is of utmost importance in the face of such negative, even if unfair, criticisms at times, to adopt and maintain that level of professional conduct which is beyond reproach, and to exert all efforts to regain the high esteem formerly accorded to the legal profession.

In sum, it is undoubtedly a misbehavior on the part of the lawyer, subject to disciplinary action, to advertise his services except in allowable instances[48] or to aid a layman in the unauthorized practice of law.[49] Considering that Atty. Rogelio P. Nogales, who is the prime incorporator, major stockholder and proprietor of The Legal Clinic, Inc. is a member of the Philippine Bar, he is hereby reprimanded, with a warning that a repetition of the same or similar acts which are involved in this proceeding will be dealt with more severely.

While we deem it necessary that the question as to the legality or illegality of the purpose/s for which the Legal Clinic, Inc.

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[47] Position Paper of the Philippine Bar Association, 12, citing the American Bar Association Journal, January, 1989, p. 60; *Rollo*, 248.

[48] *In re Tagorda,* 53 Phil. 37 (1929); *The Director of Religious Affairs vs. Bayot, supra,* Fn 38.

[49] *U.S. vs. Ney & Bosque,* 8 Phil. 146 (1907); *People vs. Luna,* 102 Phil. 968 (1958).

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was created should be passed upon and determined, we are constrained to refrain from lapsing into an *obiter* on that aspect since it is clearly not within the adjudicative parameters of the present proceeding which is merely administrative in nature. It is, of course, imperative that this matter be promptly determined, albeit in a different proceeding and forum, since, under the present state of our law and jurisprudence, a corporation cannot be organized for or engage in the practice of law in this country. This interdiction, just like the rule against unethical advertising, cannot be subverted by employing some so-called paralegals supposedly rendering the alleged support services.

The remedy for the apparent breach of this prohibition by respondent is the concern and province of the Solicitor General who can institute the corresponding *quo warranto* action,[50] after due ascertainment of the factual background and basis for the grant of respondent's corporate charter, in light of the putative misuse thereof. That spin-off from the instant bar matter is referred to the Solicitor General for such action as may be necessary under the circumstances.

ACCORDINGLY, the Court Resolved to *RESTRAIN* and *ENJOIN* herein respondent, The Legal Clinic, Inc., from issuing or causing the publication or dissemination of any advertisement in any form which is of the same or similar tenor and purpose as Annexes "A" and "B" of this petition, and from conducting, directly or indirectly, any activity, operation or transaction proscribed by law or the Code of Professional Ethics as indicated herein. Let copies of this resolution be furnished the Integrated Bar of the Philippines, the Office of the Bar Confidant and the Office of the Solicitor General for appropriate action in accordance herewith.

Narvasa, C.J., Cruz, Feliciano, Padilla, Bidin, Griño-Aquino, Davide, Jr., Romero, Nocon, Bellosillo, Melo, and *Quiason, JJ.*, concur.

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[50] Secs. 2 and 3, Rule 66, Rules of Court, in relation to Sec. 6(1), P.D. No. 902-A and Sec. 121, Corporation Code.