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Special Visas for Victims Remain Elusive Despite a Law

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The law was hailed as a tool to crack down on violent crimes against immigrant women and children when President Clinton signed it. It authorized up to 10,000 special temporary visas a year to eligible victims in the United States who helped the police and prosecutors, despite fear of deportation. And it let those with the visas eventually apply for permanent residency on humanitarian grounds.

But more than six years later, not a single such visa has been issued. Thousands of immigrants throughout the country are still awaiting a chance to apply for the “U-visas,” as they are known, despite support from law enforcement officials in eligible cases involving domestic violence, rape, sexual exploitation, involuntary servitude, murder, attempted murder and assault.

The federal government has not issued regulations to implement the law, set filing fees or even printed application forms. Instead, by the middle of last year, more than 5,800 potential U-visa applicants who passed the first hurdle of approval had been granted only one-year work permits and interim protection from deportation. That tenuous legal status does not allow them to visit their children abroad or bring them to the United States or legalize children who are here.

Now, advocates for thousands of would-be applicants are suing the Bush administration to compel it to follow the law, signed on Oct. 28, 2000. The suit, filed yesterday in federal district court in San Francisco, asks for class- action status, and was brought by a national coalition of civil rights advocates and social service agencies including Sanctuary for Families, which serves victims of domestic violence in New York.

“The fault lies with the Department of Homeland Security,” said Julie Dinnerstein, a lawyer at Sanctuary for Families, who praised the work done by trained gatekeepers at United States Citizenship and Immigration Services who screen the applications for interim relief and have granted more than 82 percent of them. “It has to do with inattention in Washington, D.C., where domestic violence victims and victims of crime are a low priority.”

Chris Rhatigan, a spokeswoman for Citizenship and Immigration Services, which is part of the Department of Homeland Security, said the delay reflected what she called the agency's commitment "to ensuring that the U-visa regulations are well thought out."

"It's a very complex process," she said. "This is a visa for undocumented immigrants who are victims of a long list of crimes. We're working with federal, state and local law enforcement agencies, and the visa applications have not only to reflect the needs of our law enforcement partners, but to offer protection to those who are in the United States who are victims of criminal activities."

One plaintiff, Constantina Campos, 35, began seeking a U-visa in 2002, after her husband was prosecuted in Brooklyn on charges of kicking and punching her and throwing her down the stairs.

With the help of Sanctuary for Families, Ms. Campos, who came from Mexico illegally with her oldest child in the 1990s, was eventually granted interim relief from deportation and a one-year work permit. But unlike a U-visa, which is good for three years, her status leaves her in legal limbo, she said, with no way to legalize her eldest daughter, Luz Maria, a 16-year-old high school student in New York who is worried that without papers she will be unable to work or go to college.

"I've already renewed my work permit three times," said Ms. Campos, who planned to speak at a news conference with lawyers outside City Hall today to urge victims of domestic violence to seek help.

"I want to feel that I won't get arrested or deported, to be able to work freely."

And to Michael Chertoff, the secretary of Homeland Security, who is a defendant in the suit, she added:

"Please, please give us something more — the U-visa and the residency, so we can be more secure in the United States, and so my daughter can study and be eligible for scholarships."

Another would-be U-visa applicant, Myriam Florez, 36, of Colombia, credited the New York City police with saving her life when her abusive husband broke into

her apartment in violation of an order of protection in 2001. But she said that many women like her were afraid to complain for fear of deportation.

Ms. Florez, a nurse's aide with two children in New York and one, a 15-year-old daughter, in Colombia, said she was unable to attend her brother's funeral in Colombia last year. On Sunday, she said, her daughter called her, crying, to say "I can't make it any more. I want to be with you."

"Many days, many months, many years I was crying for her," said Ms. Florez, who left when her daughter was a year old. "I say, how much time, God, how much time do I have to wait to see my daughter?"

The charged debate over immigration since 9/11 has undoubtedly complicated the politics of devising regulations for U-visas. Supporters of more restrictions on immigration and stricter enforcement of immigration laws call the "alphabet soup" of special visas enacted by Congress loopholes that do more harm than good. Other critics of immigration policies say the visas are no substitute for comprehensive overhaul.

But Peter Schey, a lawyer at the Center for Human Rights and Constitutional Law in Los Angeles, one of the organizations that filed the suit yesterday, said the failure to issue rules for U-visas was unlawful and had discouraged hundreds of thousands of crime victims from coming forward.

He said that after a similar suit was filed in federal court in Los Angeles in October 2005, Congress gave the Department of Homeland Security until last July to issue U-visa application forms and regulations.

Originally, he said, "the intent of Congress was to help put violent criminals behind bars, and for this to sit there for six years without action is outrageous. It not only thwarts the will of Congress, it helps violent criminals stay out of jail."