UNITED STATES DISTRICT COURT

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(2) GRANTING PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION (ECF No. 294)

Before the Court are Plaintiffs' Motion for Provisional Class Certification and Plaintiffs' Motion for a Preliminary Injunction. (Mot. for Provisional Class Certification, ECF No. 293; Mot. for Prelim. Inj., ECF No. 294.) These Motions identify a subclass of asylum-seekers caught in the legal bind created by Defendants' previous policies at the southern border and a newly-promulgated regulation known as the Asylum Ban. The Asylum Ban requires non-Mexican nationals who enter, attempt to enter, or arrive at a port of entry ("POE") at the southern border on or after July 16, 2019 to first seek asylum in Mexico, subject to narrow exceptions. Plaintiffs ask the Court to prevent the Government Defendants from applying the Asylum Ban to a class of non-Mexican nationals who were prevented from making direct claims

for asylum at POEs before July 16, 2019 and instructed to instead wait in Mexico pursuant to the Government's own policies and practices.

The putative class members in this case did exactly what the Government told them to do: they did not make direct claims for asylum at a POE and instead returned to Mexico to wait for an opportunity to access the asylum process in the United States. Now, the Government is arguing that these class members never attempted to enter, entered, or arrived at a POE before July 16, 2019, and, therefore, the newly promulgated Asylum Ban is applicable to them.

The Court disagrees. Because the Court finds that members of the putative class attempted to enter a POE or arrived at a POE before July 16, 2019, and that as such, the Asylum Ban by its terms does not apply to them, the Court **GRANTS** Plaintiffs' Motions.

I. BACKGROUND

Plaintiffs filed their initial complaint in the underlying action on July 12, 2017 in the Central District of California. (Compl., ECF No. 1.) The case was subsequently transferred to the Southern District of California. (ECF Nos. 113, 114.) The Court provides a brief overview of the action's lengthy litigation history below.

A. Overview of the Litigation

Plaintiffs' putative class action complaint alleges that Customs and Border Protection ("CBP") uses various unlawful tactics, "including misrepresentation, threats and intimidation, verbal abuse and physical force, and coercion" to systematically deny asylum seekers access to the asylum process. (Compl. ¶ 2.) Defendants moved to dismiss the Complaint on December 14, 2017. (ECF No. 135.) In its order on the motion, the Court found that organizational Plaintiff Al Otro Lado had standing to bring the case and that the case was not moot, even though some named Plaintiffs had received an asylum hearing. *See Al Otro Lado, Inc. v. Nielsen*, 327 F. Supp. 3d 1284, 1296–1304 (S.D. Cal. 2018). The Court further denied requests to dismiss the lawsuit based on sovereign immunity and held that Plaintiffs

had adequately alleged a claim under the Administrative Procedure Act ("APA"), 5 U.S.C. § 706(1), to "compel agency action unlawfully withheld." (*Id.* at 1304–05, 1309–10.)

However, the Court dismissed the § 706(1) claims brought by Plaintiffs Abigail Doe, Beatrice Doe and Carolina Doe to the extent they sought to compel relief under 8 C.F.R. § 235.4 for allegedly being coerced into withdrawing their applications for admission. *Id.* at 1314–15 (concluding that § 235.4 did not require CBP to take "discrete agency action" to determine whether a withdrawal was made voluntarily). The Court also dismissed Plaintiffs' § 706(2) claims based on an alleged "pattern or practice" because Plaintiffs had not alleged facts to plausibly "support [] the inference that there is an overarching policy" to deny access to the asylum process, and thus had not identified a "final agency action" reviewable under this provision of the APA. *Id.* at 1320. The Court granted Plaintiffs leave to amend their § 706(2) claims. *Id.* at 1321.

Plaintiffs then filed a First Amended Complaint ("FAC") on October 12, 2018, followed by a ([illegible]

capacity to process the asylum claims—is a pretext to serve "the Trump administration's broader, public proclaimed goal of deterring individuals from seeking access to the asylum process." (*Id.* ¶¶ 3, 5; *see also id.* ¶¶ 72–83.)

Defendants moved to dismiss the SAC on November 29, 2018. (ECF No. 192.) Following briefing—including six amicus briefs filed in support of Plaintiffs' arguments[1]—and oral argument, the Court largely denied Defendants' motion to dismiss the SAC. *See Al Otro Lado v. McAleenan*, 394 F. Supp. 3d 1168 (S.D. Cal. 2019). First, the Court denied Defendants' Motion to Dismiss the SAC with respect to the amended § 706(2) allegations, finding that:

> Unlike the original Complaint, the SAC now alleges that as early as 2016, Defendants were implementing a policy to restrict the flow of asylum seekers at the San Ysidro Port of Entry. Plaintiffs allege that Defendants formalized this policy in spring 2018 in the form of the border-wide Turnback Policy, an alleged "formal policy to restrict access to the asylum process at POEs by mandating that lower-level officials directly or constructively turn back asylum seekers at the border," including through pretextual assertions that POEs lack capacity to process asylum seekers.

Id. at 1180 (citing SAC ¶¶ 3, 48–93).

The Court also rejected, without prejudice, Defendants' argument that the SAC raised issues barred by the political question doctrine because they implicated "Defendants' coordination with a foreign national to regulate border crossings." *Id.* at 1190–93. The Court found that although some allegations "touch on coordination with Mexican government officials[,]" this coordination was "merely an outgrowth of the alleged underlying conduct by U.S. Officials." *Id.* at 1192

Finally, the Court rejected Defendants' arguments that Plaintiffs located on Mexican soil were not "arriving in" the United States for purposes of asylum. *Id.* at 1199–1201 (citing 8 U.S.C. § 1158(a)(1) (applicants for asylum include "[a]ny alien who is physically present in the United States or who arrives in the United States") and 8 U.S.C. § 1225(b)(1)(A)(ii) (requiring an immigration officer to refer for an

[1] Amicus briefs were filed in support of Plaintiffs by: (1) twenty states; (2) Amnesty International; (3) certain members of Congress; (4) certain immigration law professors; (5) nineteen organizations representing asylum seekers; and (6) Kids In Need of Defense ("KIND").

asylum interview certain individuals who are "arriving in the United States")). The Court found that the plain language and legislative histories of these statutes supported the conclusion that the statute applies to asylum seekers in the process of arriving. *Id.* at 1199–1201. Furthermore,

non-Mexican asylum-seekers who entered, attempted to enter, or arrived at the United States-Mexico border

class attempted to exhaust Mexico's asylum procedures within the 30-day window. In short, should the Asylum Ban apply to these individuals, the situation would effectively be this: Based on representations of the Government they need only "wait in line" to access the asylum process in the United States, the members of the putative class may have not filed an asylum petition in Mexico within 30 days of entry, thus unintentionally and irrevocably relinquishing their right to claim asylum in Mexico and, due to the Asylum Ban, their right to claim asylum in the United States.[5]

Thus, Plaintiffs seek to provisionally certify a subclass of the original class consisting of "all non-Mexican noncitizens who were denied access to the U.S. asylum process before July 16, 2019 as a result of the Government's metering policy and continue to seek access to the U.S. asylum process[.]" (Mot. for Provisional Class Certification at 13.) Plaintiffs further request that the Court preliminarily enjoin Defendants from applying the Asylum Ban to provisional class members who were metered prior to July 16, 2019. (Mot. for Prelim. Inj. at 24–25.)

Defendants argue that this Court has no jurisdiction to issue the requested relief in either Motion under a variety of provisions in the Immigration and Nationality Act ("INA") and because the subject of Plaintiffs' injunction is not of the same character as the underlying lawsuit. As to the merits of Plaintiffs' Motions, Defendants contend that Plaintiffs are not entitled to an injunction because the Government's metering policies are lawful, the balance of equities tips sharply in favor of the Government, and Plaintiffs have failed to satisfy any of the prerequisites to class certification under Federal Rule of Civil Procedure 23. For the reasons explained below, the Court rejects Defendants' arguments.

[5] Plaintiffs note that Mexico's 30-day limitation to file petitions for asylum is subject to a waiver for good cause. However, appealing untimeliness determinations on the basis of the waiver "are often decided on legal formalities" that generally require the legal expertise of an attorney, which very few of those waiting in Mexico have the means to retain. (Decl. of Alejandra Macias Delgadillo ¶¶ 35–36; Decl. of Michelle Brané ¶ 22.)

II. JURISDICTION

Defendants challenge the Court's jurisdiction to grant the requested relief, citing to various provisions of 8 U.S.C. § 1252 that preclude jurisdiction in certain contexts. Before turning to the specific subsections, it is necessary to clarify the factual and legal framework within which this Order operates. First, it is important to identify what precise question the Court has been asked to decide—and what it has *not* been asked to decide—on Plaintiffs' two Motions. Plaintiffs ask that the Court enjoin the Government from applying the Asy ( )8.2 (A)8 (sy)16.8 (( )tr)12.2 (om)8.3 (ve)

(9th Cir. 2010) ("[T]raditional equitable powers can be curtailed only by an unmistakable legislative command.").

Turning to Defendants' specific challenges to the Court's jurisdiction, Defendants make two arguments. First, Defendants argue that various subsections of 8 U.S.C. § 1252 divest this Court of jurisdiction to review the implementation of the Asylum Ban. (Opp'n to Prelim. Inj. Mot. at 6–10, ECF No. 307.) Second, Defendants argue that the requested injunction is improper because it is not of the same character as the underlying lawsuit and deals with matter lying wholly outside the issues in the suit. (*Id.* at 10–11.) The Court rejects both arguments for the reasons discussed below.

A. Bars to Jurisdiction Under 8 U.S.C. § 1252

The provisions of 8 U.S.C. § 1252 deprive this Court of jurisdiction over certain cases. Defendants take a scattershot approach, arguing that multiple subsections are applicable to Plaintiffs' requests and thus the court has no jurisdiction to reach the issues raised. The Court disagrees.

1. <u>The relief requested does not arise from, pertain to, or otherwise relate to pending removal proceedings or removal orders.</u>

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do not request review of an order of removal, challenge the decision to seek removal, or contest any step that has been taken by the Government to determine their removability, including a decision to commence or adjudicate proceedings. (*See* Mot.

but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion." *Nken v. Holder*, 556 U.S. 418, 430 (2009). Thus, in these provisions, where Congress sought to limit judicial review of policies, procedures, and regulations made under only § 1225(b)(1), the Court must presume that Congress intentionally excluded § 1158 from this jurisdictional bar. *See E. Bay Sanctuary Covenant*, 354 F. Supp. at 1118–19.

Further, the regulatory scheme for immigration law already includes a separate section discussing the implementation of the expedited removal system. *See* 8 C.F.R. Part 235 (Inspection of Pers8.3 (um)h5aA16.86R. on dn d8 (ti)8.18

General's decision in *Matter of A-B-* "went beyond" asylum and "explicitly address[ed] 'the legal standard to determine whether an alien has a credible fear of persecution' under 8 U.S.C. § 1225(b)." *Id.* at 116 (citing *Matter of A-B-*, 27 I. & N. Decl. 316, 320 n.1 (A.G. 2018)). Further, in *Matter of A-B-*, the Attorney General expressly directed immigration judges and asylum officers to "analyze the requirements as set forth" in the decision and stated that generally, claims of domestic or gang-related violence would often fail to satisfy the credible fear standard. The District Court cited this direction as evidence that the decision constituted a "written policy directive" or "written policy guidance" about expedited removal such that it was brought "under the ambit of section 1252(e)(3)." *Id.* Thus, the court concluded that "[b]ecause the Attorney General cited section 1225(b) and the standard for credible fear determinations when articulating the new general legal standard, the Court finds that *Matter of A-B-* implements section 1225(b) within the meaning of section 1252(e)(3)." *Id.*

Conversely, here, the Asylum Ban contains no similar explicit invocation of § 1225 or articulation of the credible fear standard such that the Court can conclude that this regulation falls within the ambit of § 1252(e)(3). As stated above, the regulation is framed as an additional limitation on asylum eligibility and makes no reference to the expedited removal statute or the procedures contained therein. Therefore, the Asylum Ban does not "implement" § 1225(b).

Defendants have not demonstrated how de

3. The Court is not being asked to determine the lawfulness of the Asylum Ban.

Several statutes also prohibit the judicial review of certain regulations.[8] Here, the Court is not reviewing the Asylum Ban such that these statutes apply.

Plaintiffs are not asking the Court to allow a class action challenge to the implementation of § 1225 or the Asylum Ban, to enjoin the operation of either provision, or to determine whether the Asylum Ban itself is constitutional, consistent with the Immigration and Nationality Act ("INA"), or otherwise lawful. Instead, Plaintiffs request that the Court enjoin the Government's improper application of the Asylum Ban—the constitutionality of which is the subject of other lawsuits—outside the confines of its self-imposed limitations on its scope, *i.e.*, to those who arrived in 8.5 ((e)3.6o (qu)8.2 t)8.5 J (e)3.61 (a)3..6 (w)8 16 (or)3.6201 (a)311 (a)39.w 1.308 0 Td (

application of expedited removal in individual cases.[9] *See, e.g.*, *In re Li*, 71 F. Supp. 2d 1052, 1061 (D. Haw. 1999) ("Section 1252(a)(2), entitled Matters not subject to judicial review, provides that no court shall have jurisdiction to review the application of section 1225(b)(1) *to individual aliens*.") (citing 8 U.S.C. § 1252(a)(20(A)(iv)) (emphasis added). Here, neither party has alleged that there has been any such decision to invoke expedited removal or apply expedited removal to individual Plaintiffs. Instead, Defendants argue that this provision, particularly subsection (iii), divests this Court of jurisdiction "to enjoin the application of the [Asylum Ban] to putative provisional subclass members who *will* be placed in expedited removal proceedings." (Opp'n to Mot. for Prelim. Inj. at 7.)

Defendants offer no support for the proposition that any relevant subsection of § 1252 seeks to prevent review of any issue because the Attorney General wed(e)3.5 (b)8.3 (r

and Nationality Act ("INA"), or "is otherwise in violation of the law." *See* 8 U.S.C. § 1252(e)(3)(A)(i)–(ii).

The provision, entitled "Challenges on validity of the system," limits its jurisdictional reach only to actions calling into question the legality of the expedited removal process itself. *See Innovation Law Lab v. Nielsen*, 366 F. Supp. 3d 1110, 1120 (N.D. Cal. 2019), *reversed on other grounds*, *Innovation Law Lab v. McAleenan*, 924 F.3d 503 (9th Cir. 2019). The challenges that are subject to the circumscribed jurisdiction in subsection (e)(3) must therefore target the process of removal directly, not target other circumstances incidental to removal, such as access to the asylum process. *See Padilla v. U.S. Immigration & Customs Enf't*, 387 F. Supp. 3d 1219, 1227 (W.D. Wash. 2019) ("[Section] 1252(e)(3) is addressed to challenges to the removal *process* itself, not to detentions attendant upon that process."), *appeal filed*, No. 19-35565 (9th Cir. July 2, 2019).

In *Innovation Law Lab*, the Northern District found the plaintiffs' challenge to the Migrant Protection Protocols ("MPP")—namely, that MPP did not apply to them—was not a challenge to the expedited removal system under § 1252(e)(3). *Id.* at 1119–20. Similarly, here, Plaintiffs are not raising a systemic challenge to any part of the expedited removal process. As Plaintiffs state, they do not seek to challenge, either as individual cases or systemically, Defendants' discretion to place them in expedited removal proceedings. (*See* Reply in Supp. of Mot. for Prelim. Inj. at 10–11 ("Plaintiffs take no position on whether provisional class members should be put into expedited removal, or instead placed directly into regular removal proceedings or paroled into the United States."), ECF No. 313.) Rather, they are challenging the Government's application of a specific condition of asylum eligibility to Plaintiffs themselves, regardless of the type of removal proceedings in which they are currently placed or will be placed in the future. *See Olivas v. Whitford*, No. 14-CV-1434-WQH-BLM, 2015 WL 867350, at *8 (S.D. Cal. Mar. 2, 2015) ("Plaintiff's challenge is not subject to 8 U.S.C. section 1252(e)(3) because it is not a challenge to the

Plaintiffs claim the AWA independently authorizes this Court to grant injunctive relief to prevent the claims in the SAC from being "prematurely extinguished" by the application of the Asylum Ban. (Mot. For Prelim. Inj. at 23.) Defendants argue that the AWA is not a source of this Court's authority to grant the requested relief because: (1) the Court "does not have jurisdiction in the first instance over the substantive standards governing the putative provisional subclass members' asylum applications"; (2) Plaintiffs have not shown how application of the Asylum Ban affects the Court's jurisdiction over the claims in the SAC; and (3) the INA divests this Court of jurisdiction over the expedited removal process. (Opp'n to Mot. for Provisional Class Certification at 24–25, ECF No. 308.) The Court does not find Defendants' arguments persuasive.

First, Defendants misidentify the source of the Court's jurisdiction for purposes of the AWA. Jurisdiction over the claims in the SAC arises not from the substantive standards governing the subclass's asylum applications, but from the statutory and constitutional questions over Defendants' issuance of policies and practices barring access to the asylum process. The Government does not argue that this Court lacks jurisdiction in the underlying lawsuit concerning the Government's metering practices. Therefore, jurisdiction has already been independently conferred on this Court. *See Hamilton v. Nakai*, 453 F.2d 152, 157 (9th Cir. 1971) (§ 1651 "does not confer original jurisdiction, but rather, prescribes the scope of relief that may be granted when jurisdiction otherwise exists").

Second, as Plaintiffs argue, the improper application of the Asylum Ban affects this Court's jurisdiction because it would effectively moot Plaintiffs' request for relief in the underlying action by extinguishing their asylum claims. Should the Asylum Ban be applied to Plaintiffs, these individuals' asylum claims would be foreclosed, as would any claim and request for relief regarding their right to access the asylum process. As a result, an order from this Court finding metering practices unlawful and requiring Defendants to comply with the law at the time of the metering

would provide no remedy. Thus, the metering practices, if found unlawful, are the type of wrong that may otherwise stand uncorrected without the invocation of the AWA, as contemplated by the Supreme Court. *See Morgan*, 346 U.S. at 512.

Hence, to preserve its jurisdiction over the underlying claims in the SAC, the Court finds that it possesses the authority under the AWA to issue an injunction preserving the status quo in this case and allow this Court to resolve the underlying questions of law before it. *See United St.2 (pr)3.6 (e)3.6olve1.3 (s)0.5 (in)0.5 (theTo12c*

of meeting the threshold requirements of Federal Rule of Civil Procedure 23(a). *Meyer*, 77 F.3d at 1041.

> Rule 23(a) provides that a class may be certified only if:
>
> (1) the class is so numerous that joinder of members is impracticable; (2) there are questions of law or fact common to the class; (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class; and (4) the representative parties will fairly and adequately protect the interests of the class.

Fed. R. Civ. P. 23(a). In addition to meeting the 23(a) requirements, a class action

"All questions of fact and law need not be common to satisfy the [commonality requirement]. The existence of shared legal issues with divergent factual predicates is sufficient." *Meyer*, 707 F.3d at 1041 (quotations omitted). "The common contention 'must be of such a nature that it is capable of classwide resolution—which means that determination of its truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke.'" *Id.* at 1041–42 (quoting *Dukes*, 564 U.S. at 350).

In this case, Plaintiffs argue that the common question capable of generating a common answer involves whether the metering is statutorily and constitutionally legal. (Mem. of P. & A. ISO Mot. for Provisional Class Certification at 18–19.) thee2

Reply ISO Mot. for Provisional Class Certification, ECF No. 315-3.) He still seeks to apply for asylum in the United States. (*Id.*)

Because Roberto Doe claims he came to a U.S. POE from a country other than Mexico to seek asylum, attempted to make a direct claim for asylum at a POE before July 16, 2019 but was turned away due to the metering policy, and still intends to seek asylum in the United States, the Court finds that he has provided sufficient information to satisfy the test of typicality for the purposes of Rule 23.

4. Adequacy of Representation

For the class representative to adequately and fairly protect the interests of the

it can be enjoined or declared unlawful only as to all of the class members or as to none of them." *Dukes*, 564 U.S. at 360 (quotation omitted). "In other words, Rule 23(b)(2) applies only when a single injunctive or declaratory judgment would provide relief to each member of the class." *Id.*

CV-2654-BAS (WVG), 14-cv-2915-BAS (WVG), 2016 WL 3952153 at *5 (S.D. Cal. July 21, 2016).[10]

The Court notes, however, that even if the class was required to satisfy the ascertainability requirement, "it would be satisfied because it is 'administratively feasible' to ascertain whether an individual is a member." *Inland Empire-Immigrant Youth Collective*, 2018 WL 1061408, at *12 (citing *Greater L.A. Agency on Deafness, Inc. v. Reel Servs. Mgmt. LLC*, No. CV 13–7172 PSG (ASx), 2014 WL 12561074, at *5 (C.D. Cal. May 6, 2014)).

Defendants' arguments to the contrary do not alter this conclusion. Defendants allege that because they do not maintain a systematic record of encounters at the limit line, the class is not ascertainable. Specifically, Defendants state the Government of Mexico, and not the U.S. Government, was responsible for implementing a process to monitor asylum-seekers (Opp'n to Mot. for Provisional Class Certification at 24) and CBP officers who metered asylum-seekers at the limit line "do not memorialize the encounter in any way." (Decl. of Randy Howe ¶¶ 4–5, Ex. 4 to Opp'n to Mot. for Provisional Class Certificationff 00 -

service run by the Mexican Government's National Institute of Migration, maintains a formalized list of asylum-seekers, communicates with CBP regarding POE capacity, and transports asylum-seekers from the top of the list to CBP. (Decl. of Nicole Ramos ¶ 7, Ex. 26 to Mot. for Provisional Class Certification, ECF No. 293-28; Decl. of J.R. ¶ 11, Ex. 14 to Mot. for Prelim. Inj., ECF No. 294-16 (alleging waitlist "was controlled by Mexican immigration officials, and they were in touch with U.S. officials who would ask every day for a certain number of people to present themselves at the U.S. offices").)

Therefore, CBP relied on these lists to facilitate the process of metering, which was premised on the idea that those individuals who were metered would have to wait—but were not precluded from—applying for asylum in the United States. Despite this, Defendants now take the position, without contradicting claims that they themselves relied on the lists for purposes of metering, that the waitlists are "subject to fraud and corruption and are not themselves reliable means of ascertaining class membership.subjes Tc2ae (t)-8 (oM)-8.98 (n8.3 (w .)-8.5 (y)16.9 ( )]Tj -0.008 Tc 0[(fo)-3.

Immigrant Youth Collective, 2018 WL 1061408, at *13 ("That some administrative effort is required does not preclude certification."). Thus, even if ascertainability is required under Rule 23(b)(2), the Court finds that the proposed class satisfies this requirement.

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who enters, attempts to enter, or arrives in the United States across the southern land border on or after July 16, 2019").

In its most recent order in this case, this Court concluded that class members "who may not yet be in the United States, but who [are] in the process of arriving in the United States through a POE[,]" were "arriving in the United States" such that

neither. Instead, although the regulation clearly states that it applies only to aliens who entered, attempted to enter, or arrived on or after July 16, 2019, the Government is now attempting to apply the Asylum Ban beyond its unambiguous constraints to capture the subclass of Plaintiffs who are, by definition, not subject to this rule.

The Government's position that the Asylum Ban applies to those who attempted to enter or arrived at the southern border seeking asylum before July 16, 2019 contradicts the plain text of their own regulation. Thus, the Court finds that Plaintiffs are likely to succeed on this issue on the merits.

B. Irreparable Harm

"Irreparable harm is traditionally defined as harm for which there is no adequate legal remedy, such as an award of damages." *Ariz. Dream Coalition*, 757 F.3d at 1068. "Because intangible injuries generally lack an adequate legal remedy, 'intangible injuries [may] q.5 (bl)8.5 [illegible]

Second, as discussed above, if the Asylum Ban was meant to apply to those individuals waiting for their asylum hearing in Mexico due to the metering policy, the regulation could simply have said so. The fact that the Government is now so broadly interpreting a regulation that could have, but did not, include those who were metered, also leads the Court to include that the balance of equities tips in favor of Plaintiffs.

The Court concludes Plaintiffs have clearly shown a likelihood of success on the merits and irreparable harm, and that the balance of equities and public interest fall in their favor. Hence, the Court **GRANTS** Plaintiffs' Motion for a Preliminary Injunction.

D. Scope of the Injunction

"[T]he scope of injunctive relief is dictated by the extent of the violation established, not by the geographical extent of the plaintiff." *Califano v. Yamasaki,* 442 U.S. 682, 702 (1979). Sc( )T0 /TT3 1 Tf -0.004 Tc0 (i)8.5 (n 0[illegible]

certified in this case, defined in Section III, *supra*. The preliminary injunction therefore does not restrain nationwide effect of the Asylum Ban; it restrains only the effect of the Ban on those members of the provisionally certified class who fall outside the Ban's stated parameters.

V. CONCLUSION

For the reasons stated above, the Court **GRANTS** Plaintiffs' Motion for Provisional Class Certification (ECF No. 293)