California Secretary for Environmental Protection Jared Blumenthal speaking as part of a panel on subnational climate action in North America.
Photo Credit: The Climate Registry

One of the undercurrents of the negotiations at COP 25 in Madrid is the lack of leadership from the United States government after the decision to pull out of the Paris Agreement. While the formal decision-making process here only involves nations that are party to the agreement, there are numerous NGOs, business groups and other non-state parties that participate as observers by attending the COP and putting on side events. One of the most interesting parts of the COP has been to hear how states and cities across the U.S. have chosen to take action to address climate change in the face of the federal government pullout.

At a discussion on decarbonizing the transportation sector, Tim Sexton, the Assistant Commissioner and Chief Sustainability Officer for the Minnesota Department of Transportation, described the idea of consumer choice when it comes to the transition to electric vehicles as “a bit of a fallacy” because of the profit incentives that motivate vehicle manufacturers to market trucks more heavily than EVs. I thought it was an interesting way to think about how we approach solutions to climate change.

We need to think about where the fallacy of choice limits the ability of individuals to choose a greener future, as well as where policy can shape individual decision-

making by limiting choice in a way that protects the future of our planet. Pollution caused by traffic congestion is a major issue, but building more roads isn't the answer. A more comprehensive solution to the problem would be to give people the choice to ride public transit in tandem with limiting the choice to park cars, by reducing wasted land use on parking lots in a country where there are as many as eight parking spots for every car.

It's also important to remember that while these state and local policies are critical steps, they are not a replacement for action from the federal government. As California Secretary for Environmental Protection Jared Blumenfeld put it, having a federal government that believed in climate change would make all the difference in the world. State policies right now are providing a bulwark against choices made at the federal level. But in an ideal world, federal policy would limit the ability of states to choose inaction (which many are doing) by setting a minimum floor for state policies.

In theory, the COP process would play that same role on the international level by limiting the ability of individual countries to choose not to act. Here in Madrid, it is clear that the global public is frustrated by the inability and unwillingness of the delegates to step into that role, with multiple protests from indigenous and youth activists interrupting the proceedings yesterday. Discussions on the remaining issues regarding implementation of the Paris Agreement have been contentious, and it remains to be seen whether consensus will be reached on the most controversial issues, including carbon markets, finance, and loss and damage. Despite calls for increased ambition from UN leadership, delegates are choosing to delay action on many issues until 2020.

While countries choose to delay action at every step of the COP process, unfortunately for people around the world there isn't a choice to be made about whether we live with the effects of climate change. This is especially true for indigenous people and low-income communities that face the most catastrophic of these impacts. In some ways this is the true fallacy of climate choice – rich, powerful countries and businesses can choose whether to address climate change, but the choice is being made for everyone else. The big question is what choices we as citizens and future lawyers can make that can push our leaders to make better climate choices in the future.

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