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<http://www.guardian.co.uk/world/2012/nov/25/obama-drone-warfare-rulebook>

Obama 'drone-warfare rulebook' condemned by human rights groups

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President Barack Obama's administration is in the process of drawing up a formal rulebook that will set out the circumstances in which targeted assassination by unmanned drones is justified, according to reports.

The New York Times, citing two unnamed sources, said explicit guidelines were being drawn up amid disagreement between the CIA and the departments of defense, justice and state over when lethal action is acceptable.

Human-rights groups and peace groups opposed to the CIA-operated targeted-killing programme, which remains officially classified, said the administration had already rejected international law in pursuing its drone operations.

"To say they are rewriting the rulebook implies that there isn't already a rulebook" said Jameel Jaffer, the director of the American Civil Liberties Union's Center for Democracy. "But what they are already doing is rejecting a rulebook – of international law – that has been in place since [the second world war]."

He said the news was "frustrating", because it relied on "self-serving sources". The New York Times piece was written by one of the journalists who first exposed the existence of a White House "kill list", in May.

The ACLU is currently involved in a legal battle with the US government over the legal memo underlying the controversial targeted killing programme, the basis for drone strikes that have killed American citizens and the process by which individuals are placed on the kill list.

Jaffer said it was impossible to make a judgement about whether the "rulebook" being discussed, according to the Times, was legal or illegal.

"It is frustrating how we are reliant on self-serving leaks" said Jaffer. "We are left with interpreting shadows cast on the wall. The terms that are being used by these officials are undefined, malleable and without definition. It is impossible to know whether they are talking about something lawful or unlawful.

"We are litigating for the release of legal memos. We don't think the public should have to reply on self-serving leaking by unnamed administrative officials."

The New York Times said that, facing the possibility that the president might not be re-elected, work began in the weeks running up to the 6 November election to "develop explicit rules for the targeted killing of terrorists by unmanned drones, so that a new president would inherit clear standards and procedures, according to two administration officials".

It went on to say that Obama and his advisers were still debating whether remote-controlled killing should be a measure of last resort against imminent threats to the US, or whether it should be more widely used, in order to "help allied governments attack their enemies or to prevent militants from controlling territories".

Jaffer said he was sceptical about the significance of the debate outlined in the piece. He said: "The suggestion is that there is a significant debate going on within the administration about the scope of the government's authority to carry out targeted killings. I would question the significance of the debate. If imminent is defined as broadly as some say it is within the administration then the gap between the sides is narrow.

"It matters how you define 'imminent'. The Bush administration was able to say it didn't condone torture because of the definition of torture. You might think that if someone says, 'I believe we should only use targeted killings only when there's an imminent threat,' you might think that sounds OK. But without terms like 'imminent' being defined it is impossible to evaluate the arguments."

Medea Benjamin, the co-founder of Code Pink, an anti-war group, said the news that formal rules were being written for targeted killing was "disgusting".

"That they are trying to write the rules for something that is illegal is disgusting" said Benjamin. "They are saying, 'The levers might be in the wrong hands.' What about the way they are using them right now? There is nothing about taking drones out of the hands of the CIA – which is not a military organisation – or getting rid of signature strikes, where there is no evidence that people are involved in terrorist activities."

In Pakistan and Yemen, the CIA and the military have carried out "signature strikes" against groups of suspected and unnamed militants, as well as strikes against named terrorists.

Benjamin said she had just come back from Pakistan, where the "intensity of the backlash will take generations to overcome".

The New York Times quotes an official who, speaking on condition of anonymity, said there was "concern that the levers might no longer be in our hands" after the election.

In October, Obama referred to efforts to codify the controversial drone programme. In an interview with Jon Stewart on The Daily Show on 18 October, the president said: "One of the things we've got to do is put legal architecture in place and we need congressional help in order to do that, to make sure that not only am I reined in but any president is reined in, in terms of some of the decisions we're making".

While Obama and administration officials have commented publicly on the legal basis for targeted killings, the program is officially secret. In court, government lawyers fighting lawsuits by the ACLU continue to claim that no official has ever formally acknowledged the drones, and that there might not even be a drone programme.

Two lawsuits – one by the ACLU and the other by the ACLU and the NYT – seeking information on the legal basis on targeted killing, are still pending.