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Troubles enough

A proposal to label the Irish conflict a war risks igniting another one, writes Henry McDonald

Henry McDonald, Ireland correspondent

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A commission set up to deal with the Ulster Troubles has just lobbed two political hand grenades at Northern Ireland's still fragile political compromise. It has proposed giving paramilitaries an amnesty for their crimes in return for full disclosure of what they did and it has asked the British government to declare that it indeed fought a war against the IRA for 35 years.

The first suggestion is easier to explore than the second, because an amnesty has, in effect, already been conferred on members of the IRA, INLA, UDA, UVF and LVF. Under the terms of the Good Friday agreement, in 1998, paramilitary prisoners (some of them only beginning life sentences) were freed as part of the deal for these groups to abandon their armed campaigns. The commission's suggestion only moves things forward in terms of coaxing paramilitaries - or "ex-terrorists", depending on your view - into telling the truth about the campaign of sabotage and assassination that in the main made up the "armed struggles" of the republicans and loyalists.

Most people in Northern Ireland have come to live with the sight of mainly unrepentant paramilitaries walking free early from the Maze prison. However, the idea that some formal amnesty will prompt these activists to confess fully, in

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public, to what they did during the Troubles is naive in the extreme and in fact reflects a level of ignorance about the very nature of paramilitary groups.

These were underground armies bound by oaths of secrecy. Even today, long after the end of conflict, the bonds of loyalty and vows of silence remain strong among the old comrades. Many of them would see full disclosure of their "operations" as only one step down from informing.

The second proposal, however - that Britain admit it was at "war" - contains unintended consequences for the political process. For, if the conflict was to be redefined as a war, then that would mean many of the main players in the violence could, theoretically, be accused of war crimes. The loyalist paramilitaries would certainly be vulnerable to the charge of war crimes given that all but a few of their victims were Catholic civilians. In theory they could be indicted for deliberately targeting civilians, a policy in breach of the Geneva conventions governing the rules of war.

Republicans would not be immune to charges of war crimes, either. Even though they would probably like the idea of having fought a "war" against Britain, they too would be open to charges of war crimes. The Geneva conventions explicitly forbid the execution of captured prisoners of war.

What then, for instance, would the families of two British corporals who were captured and killed in west Belfast in front of television cameras, back in 1988, think if their relatives were deemed to have died in a war? Couldn't they, using institutions such as the international war crimes court at The Hague, sue those leaders on the republican side who oversaw that war?

The idea is not outlandish. At present a large group of civilians who either had family members in the conflict or were themselves injured in IRA attacks are suing the Libyan government through US courts over Colonel Gadhafi's decision to supply the provisionals with war material during the 1970s and 80s.

The commission into the past not only seeks truth about the conflict but also would borrow from the South African model of reconciliation. The trouble, however, with its latest suggestion is that those at the sharp end of the conflict may not feel obliged to speak the truth of what they did, while a retrospective declaration of war may lead to a new war-by-other-means fought through the courts in Britain, Ireland and Europe.

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