The Just War Theory

I. Background:
A) **Who:** Can be traced back to the writings of St. Augustine, (~400 A.D.). Further developed by St. Thomas Aquinas (~1250 A.D.) and the Hague and Geneva Conventions (20th Century).
B) **Purpose:** Originally to reconcile the Christian view of the immorality of violence with the necessity of defending the Roman Empire from invading forces. Today the Just War Theory may be described as a set of principles that are used to determine (1) when we are permitted to go to war (Jus Ad Bellum principles) and (2) what we are permitted to do in war (Jus in Bello principles).

II. Jus Ad Bellum Principles:
Principles that determine when it is permissible to go to war. A nation is permitted to go to war when and only when all of the following requirements are met.

A) **Just Cause:** To use force against another nation, there must be a serious reason to justify it. To understand what constitutes a serious reason, consider when common-law allows one person to use force against another. If I initiate an attack of aggression on another person, I have committed a battery, which is a criminal offense; hence, common-law prohibits a person to initiate an attack of aggression. On the other hand, if someone initiates an attack of aggression on me, I can use force to defend myself, though only use as much force as is necessary to ward off the attack. Finally, if I see someone initiating an attack on you, I can use force to defend you (but again, only as much force as is necessary to ward off the attack).

*The Just War Theory takes these considerations from common-law and lays out three principles that constitute the just cause requirement:*

1) The Principles of the Just Cause Requirement:
   (a) A nation cannot initiate an attack on another nation.
   (b) A nation can attack in self-defense to repel an attack.
   (c) A nation can act in self-defense of another nation that has been attacked.

2) The Issue of Preemption: Some theorists add a principle of preemption to the just cause requirements. So, if one nation has good reason to believe that an attack is imminent or about to happen, then it may use as much force as is necessary to prevent that attack from happening. The doctrine of preemption is, however, controversial. We may add this principle to the just cause requirement with the caveat that some just-war theorists reject it possibly:

   (d) If a nation has good reason to believe that an attack is forthcoming, it can use force to undermine that attack from occurring.
3) Examples:
   (a) WWII: The US had just cause for entering WWII certainly after Pearl Harbor (principle (b) above), but definitely Pearl Harbor too in so far as we’d be defending our allies from the Axis attack (principle (c) above).
   (b) The Gulf-War of 1992: Since Iraq attacked Kuwait, we had just cause for attacking Iraq.
   (c) Vietnam: we entered Vietnam to contain the spread of communism. The idea was that if Vietnam was overrun by the communists, all of Southeast Asia would succumb, as would Japan eventually. This rationale for war does not appear to meet the just cause requirement.
   (d) Afghanistan: The US was definitely attacked by Al Quaida, which was being protected by the Taliban. Were we repelling an attack when we toppled the government of Afghanistan or were we just seeking revenge? If the just cause requirement includes the principle of preemption, we’d have a much easier time justifying the use of force in Afghanistan.

B) Proportionality: This principle states that the probable good that the war will achieve must be worth the cost of fighting the war. The loss of many lives is not worth achieving a modest good. This Jus Ad Bellum principle demands that we consider the likely costs and benefits of going to war with other alternatives, including the alternative of doing nothing.
   1) Reasonable Chance of Success: clearly, a war will only meet the proportionality requirement if the nation has a reasonable chance of success. Marching soldiers off to their certain deaths when there is no hope of victory is not worth it, no matter how you look at it.
   2) Examples:
      (a) WWII: most would say this war was worth it.
      (b) Vietnam: most would argue that the costs of this war far outweighed the benefits of fighting it. About 58,000 Americans, 220, 000 South Vietnamese and 900, 000 North Vietnamese lost their lives.

C) Last Resort: This principle requires (1) that a nation consider other means of warding off (or preempting) an attack, and (2) that if any such means are reasonable, they must be tried. Alternative means to war include negotiations, threats, and boycotts.
   1) Examples:
      (a) Cuban Missile Crisis: Despite pressure to attack Cuba from various factions of the government and military, JFK used a blockade of Cuba and secret negotiations with the Soviets to avert war. This is an excellent example of a commander in chief giving credence to the Last Resort requirement.
      (b) Gulf War: many people felt that George Bush did not give alternative means a chance before going to war. They argued that economic sanctions imposed on Iraq would have eventually caused Sadaam to withdraw from Kuwait.
D) **Right Intention**: This principle ensures that wars are not fought for questionable reasons, but only to drive out the attacking nation and establish a fair peace. Wars fought to satisfy hatreds, or punish others do not satisfy this principle, nor do wars fought for economic or ideological reasons.

1) Examples:
   (a) Gulf War: many people have argued that the intention for fighting the gulf war was not to protect Kuwait, but really to protect our crude oil interests.
   (b) Afghanistan: some people felt that we attacked Afghanistan out of revenge. If so, then this war is not being fought with the right intentions (according to the Just War Theory). On the other hand, if we attacked Afghanistan as a way to defend our country from further attack, then, arguably, we are fighting with the right intentions.

III. **Jus In Bello Principles**: these principles determine what we are morally permitted to do when we are fighting a war.

A) **Proportionality**: This principle demands (1) that we use no more force than is necessary to achieve a particular objective and (2) that the harm caused be proportionate with the good obtained by achieving the objective.

1) Examples:
   (a) If allies implement a policy of taking no prisoners alive, this would have violated prong (1) of the proportionality principle, since killing all POWs would be an unnecessary use of force.
   (b) If taking out a bunker would lead to the death of hundreds of civilians, then doing so would violate prong (2) of the proportionality principle.

B) **Discrimination**: This principle prohibits direct, intentional attacks on non-combatants and non-military targets.

1) Definitions:
   (a) Military targets: something that contributes directly to and in a significant way to the military operation. Includes roads, bridges, munitions factories, and fuel supplies among other things, but not hospitals.
   (b) Combatants: someone doing what he or she does specifically for the war effort. Includes, among others, those who make and transport military equipment, as well as those who fight unwillingly. Also, combatants are usually limited to those who support the war with physical effort and is meant to exclude those whose support is verbal, such as journalists and academics. Non-combatants also include farmers and medics, since they do what they do for others in so far as those recipients are people, not soldiers.

C) **Intentional Killing and the Principle of Double Effect**: sometimes noncombatants are killed although the attack is not intended to do this.
Proponents of the Just War Theory appeal to the principle of double-effect in order to account for the non-intentional killing of noncombatants. We begin with the assumptions that the accidental killing of a non-combatant is a “bad effect”, and the achievement of a particular military objective is a “good effect” (for example, the destruction of a military target or the killing of combatants). The Principle of double effect declares that it is permissible to kill non-combatants if

i) the good effect is intended but the bad effect is not
ii) the bad effect is not a means to the good effect
iii) the good effect is proportional to the bad effect

(1) Examples
A) Gulf-War: Sadaam hid munitions factories in schools and hospitals to deter the US from destroying them. According to the principle of double effect and the principle of discrimination this was permissible because

i) the destruction of the factories was the intention of bombing the schools and hospitals and not the killing of students, teachers, doctors, nurses or patients.
ii) the killing of these non-combatants was obviously not the means to achieve the destruction of the munitions factories.
iii) given its strategic importance, the destruction of the munitions factories was proportional to the killing of non-combatants.

B) WWII: By destroying the cities of Dresden and Tokyo and killing several hundred thousand non-combatants, the allies instilled fear in Germany and Japan. This clearly does not meet the standards laid out by the principle of double-effect:

i) despite intending to instill fear (the good effect), the allies also intended to kill non-combatants (the bad effect).
ii) the killing of non-combatants was the means by which the goal of instilling fear was to be achieved.
iii) the killing of several hundred thousand non-combatants failed to instill fear in the Japanese and Germans.