

# Theory and Philosophy of International Law Volume I

Philosophical Inquiries and General  
Theoretical Concerns

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INTERNATIONAL LAW

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18. Thomas M. Franck (1988), 'Legitimacy in the International System', *American Journal of International Law*, **82** (4), October, 705–59 685
19. Fernando R. Tesón (1992), 'The Kantian Theory of International Law', *Columbia Law Review*, **92** (1), January, 53–102 740