

CONTENTS

<i>Foreword</i>	page xiii
<i>Acknowledgements</i>	xv
<i>Table of cases</i>	xvii
<i>Table of treaties</i>	xix
<i>List of abbreviations</i>	xxiii

Introduction 1

1	The move to institutions in the age of rights	13
I	Introduction	13
II	The move to institutions: international institutional law	14
A	The development of international institutional law	14
B	The role of membership criteria	16
1	Admission to an international organisation	18
2	Membership and representation	20
3	Termination of membership	20
4	Political or legal criteria?	23
III	International organisations and the concept of legitimacy	27
A	Approaches to legitimacy in international law	28
B	The application of legitimacy to membership criteria	32
1	Legality and the interpretation of constituent instruments	33
2	Membership and functions	40
3	The clarity and coherence of the criteria employed	43
IV	The age of rights: international law, human rights and democracy	45
A	International human rights law	47

1	Categorising and prioritising rights	48
(a)	Debates concerning the 'generations' of rights and universalism and cultural relativism	48
(b)	Potential consequences of debates for membership criteria	51
2	Indeterminacy and inflexibility in rights discourse	52
B	The right to democracy in international law	53
1	Definitions of democracy in international law	53
2	Democracy as a membership condition	57
2	The challenge of universality – the League of Nations and the United Nations	60
I	Peace, democracy and universality	60
II	Admission to the League of Nations	63
A	Wartime proposals for a League of Nations: Great Powers and small states	63
B	Governmental proposals: democracy and rights introduced	66
C	Discussions at the Commission: peace through justice and peace through democracy	68
1	The character requirement	68
2	Conclusion of the Commission's discussions: Article 1 of the Covenant	71
D	Subsequent admission practice: the move to a universal peace organisation	72
1	The meaning of 'self-governing'	73
2	The relevance of human rights standards	77
3	The admission of Germany and the USSR	79
E	Peace through universality	82
III	Admission to the UN	83
A	The establishment of the UN	84
1	From Moscow to Dumbarton Oaks	84
2	The San Francisco Conference	86
B	The role of the Security Council and the purposes and principles of the UN	89
C	The interpretation and application of Article 4 of the Charter	92
1	The East–West divide and admission in the early years	92
2	Self-determination and the process of decolonisation	96

3	The admission of states from the Soviet Union and the former Yugoslavia	101
IV	Exclusion from membership and the two principles of universality	104
A	The exclusion clauses in the Covenant and Charter	106
B	Expulsion from the League	107
C	Exclusion from the UN	109
1	Expulsion and suspension	109
2	Forced exclusion	112
3	The alternative: representation and the credentials process	114
(a)	Two rival representatives and the dispute over China's seat	115
(b)	The exclusion of South Africa through the rejection of credentials	116
(c)	Problems with the use of the credentials process to implement democracy	117
V	Conclusion	121
3	Rights, regionalism and participation in Europe	124
I	Introduction	124
II	Human rights, democracy and participation in Europe	126
A	Human rights and democracy in Europe	126
B	The documentary criteria for participation in Europe	128
1	Treaty provisions	130
2	Other documentary sources	134
III	Admission and exclusion in the European organisations	137
A	Pre-1990s: human rights and democracy assumed	138
B	Early 1990s: human rights and democracy acknowledged	142
C	Late 1990s–2004: human rights and democracy applied	145
1	Increased procedural requirements	146
2	Substantive rights	148
(a)	New members	148
(b)	Attempts to exclude members	151

IV	Creating a united Europe?	154
A	Inconsistencies in the application of membership criteria	155
1	Inconsistency within the organisations	155
2	Inconsistency across the organisations	157
B	The appropriateness of using rights to integrate Europe	159
V	Functions and the role of rights	162
4	Restricting the ranks – excluding states from closed organisations	165
I	Sovereignty, democracy and exclusion	165
II	Regional integration: the desire to unite and the pressure to exclude	168
A	Admission to regional organisations	170
B	Excluding states from regional organisations	172
1	Judging democracy in the Americas	172
(a)	The exclusion of Cuba from the OAS	173
(b)	The Protocol of Washington and democracy clauses in the Americas	177
(c)	Enforcing democracy through OAS procedures	180
2	Dealing with anti-democratic behaviour in Africa	184
(a)	Development of the legal regime	184
(b)	Unconstitutional changes of government in Africa	187
3	ASEAN and democracy – on the rise or in retreat?	191
(a)	Two steps forward: the rise of democracy in Southeast Asia	192
(b)	Two steps back: the admission of Burma	194
(c)	Two steps to the side: the (delayed) admission of Cambodia	196
4	Reinventing the Pacific Way in the Pacific Islands Forum	199
III	Balancing cooperation and confrontation in informal organisations	201
A	Condemning coups in the Commonwealth	204
B	Dealing with persistent breaches of democracy and human rights	209
C	The exclusion of Yugoslavia from the CSCE	211

IV	Problems with suspension as a sanction for breaches of democracy and human rights	214
A	Defining democracy through exclusion criteria	215
B	The suitability of suspension as a sanction	217
C	The efficacy of exclusion as a remedy	218
5	The relationship between powers, purposes and participation in specialised organisations	222
I	Introduction	222
II	The specialised agencies of the UN	224
A	The establishment of the specialised agencies and the politicisation of their work	224
B	Excluding the enemy: Spain in the UPU and ICAO	228
C	Excluding apartheid South Africa from the specialised agencies	232
D	The campaign to condemn Israel	238
E	Purposes, powers and politicisation in the specialised agencies	244
III	International trade organisations	246
A	The relationship between economic growth and the promotion of human rights in the constitutions of trade organisations	246
B	The WTO: the potential link between trade policy, labour rights, good governance and membership	249
1	The role of human rights in the accession process	250
2	The requirements of good governance in trade policy	253
C	Regional Economic Communities – connecting free trade and democracy through exclusion	255
1	Constitutional provisions of RECs	255
2	The membership practice of RECs	257
D	Extending the functions of international economic organisations through membership	261
IV	Conclusion	263
6	Legitimacy, democracy and membership	265
I	Introduction	265
II	The roles of human rights and democracy in determining participation	266

III	The legitimacy of the practice	270
A	The question of legality and the constituent instrument	271
B	The relationship between membership and functions	275
C	The clarity and coherence of the criteria	277
1	Clarity	277
2	Coherence	280
IV	Democracy and the membership process of international organisations	283
A	Democracy within international organisations	284
B	Democracy in the decision-making process for determining membership	288
1	Representation	288
(a)	Admission decisions	288
(b)	Exclusion decisions	290
2	Transparency in the membership procedures	292
3	Participation of the affected state	294
4	Increasing accountability in the membership procedure: judicial review?	295
V	Membership and the protection of democracy and human rights	298
A	International organisations as democratic actors	299
1	Curing the democratic deficit within international organisations	300
2	Democracy as a membership condition: democratisation from above?	302
B	The protection of human rights	306
	Conclusion	311
	<i>Select bibliography</i>	318
	<i>Index</i>	335