

# ROBERT HARRIS MNOOKIN

## PERSONAL DATA:

Born: February 4, 1942  
Married: Dale Seigel Mnookin  
Children: Jennifer Leigh (born 6/67)  
Allison Heather (born 4/70)

## PRESENT POSITION:

*Samuel Williston Professor of Law, Harvard Law School  
Chair, Program on Negotiation, Harvard University  
Director, Harvard Negotiation Research Project*

## BUSINESS ADDRESS:

Harvard Law School  
Cambridge, MA 02138  
(617) 495-9201  
(617) 496-3777 (fax)  
mnookin@law.harvard.edu  
www.mnookin.com

## RESIDENCE:

10 Follen Street  
Cambridge, MA 02138  
(617) 576-9448

## SCHOLARLY AND TEACHING INTERESTS:

Dispute resolution (negotiation, mediation and arbitration), the legal profession, contracts and family law.

## PROFESSIONAL EXPERIENCE:

1993-present: Samuel Williston Professor of Law, Harvard Law School;  
Chair, Steering Committee, Program on Negotiation, Harvard  
University; Director, Harvard Negotiation Research Project

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- 2006-2007: Fellow, Center for Advanced Study in the Behavioral Sciences, Stanford, California
- 2006: Franquai International Chair, Catholic University of Leuven, Belgium
- 2000: University of Virginia School of Law, John M. Olin visiting Professor
- 1998: Visiting Professor of Law, Columbia Law School
- 1989-1993: Adelbert H. Sweet Professor of Law, Stanford Law School
- 1988-1993: Director, Stanford Center on Conflict and Negotiation, Stanford University
- 1990-91: Visiting Professor of Law, Harvard Law School
- 1986-97: Arbitrator, IBM Corp. v. Fujitsu, Ltd.
- 1981-89: Professor of Law, Stanford Law School
- 1981-82: Fellow, Center for Advanced Study in the Behavioral Sciences, Stanford, California
- 1980-81: Visiting Professor of Law, Stanford Law School
- 1975-81: Professor of Law, Boalt Law School, University of California, Berkeley
- 1978: Visiting Fellow, Centre for Socio-Legal Studies, Wolfson College, Oxford University
- 1972-74: Director, Childhood and Government Project Earl Warren Legal Institute University of California, Berkeley (Responsible for multi-disciplinary, foundation-supported research project dealing with government policies that affect children)
- 1972-74: Acting Professor of Law, Boalt Law School, University of California, Berkeley
- 1970-72: Associate Attorney, Howard, Rice, Nemerovski, Canady, Robertson & Falk San Francisco, California Of Counsel, 1972-1985
- 1969-70: Law Clerk to Justice John M. Harlan Supreme Court of the United States

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1968-69: Law Clerk to Judge Carl McGowan United States Court of Appeals for the District of Columbia Circuit

HONORS AND AWARDS:

1995-present: Fellow, American Academy of Arts and Sciences

2006-2007: Fellow, Center of Advanced Study in the Behavioral Sciences, Stanford, California

2006: Francqui International Chair, Francqui Foundation, Leuven Belgium

2000: Center for Public Resources, Inc.; CPR Awards for Excellence in Alternative Dispute Resolution 2000 Book Prize: *Beyond Winning: Negotiating to Create Value in Deals and Disputes*

1995: Center for Public Resources, Inc.; Award for Excellence and Innovation in Alternative Dispute Resolution: Book Prize, *Barriers to Conflict Resolution*.

1993: Center for Public Resources, Inc.; Award for Excellence and Innovation in Alternative Dispute Resolution: First Prize for Professional Article, "Why Negotiations Fail: An Exploration of Barriers to Conflict Resolution"

1993: American Sociological Association; William J. Goode Book Award for the most outstanding book length contribution of the year to family scholarship, *Dividing the Child*

1987: Endowed Professorship, Adelbert H. Sweet Professor of Law (first recipient)

1986: National Center for Youth Law and Youth Law Center; Award for Outstanding Leadership in the Protection of Children's Rights

1983: American Psychological Association Division of Child, Youth and Family Services; Award for Distinguished Contributions to Child Advocacy, (first recipient)

1981-82: Fellow, Center of Advanced Study in the Behavioral Sciences, Stanford, California

1964-65: Fulbright Scholar, Econometric Institute, Netherlands, School of Economics, Rotterdam, Holland

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EDUCATION:

*Harvard Law School*, LL.B., Magna Cum Laude (1968). Associate Editor, *Harvard Law Review*; Joint Student Faculty Committee; Lincoln's Inn Society; Prize for best brief in Spring Round first year Ames Moot Court Competition (with S. Marcuss).

*Econometric Institute*, Netherlands, School of Economics, Rotterdam, Holland (1964-65). Fulbright Scholar.

*Harvard College*, A.B., Magna Cum Laude – Economics (1964). Hasty Pudding Institute of 1770. Honors: National Science Foundation Graduate Fellowship (refused); Leverett House Senior Common Room Award.

Pembroke County Day School  
Kansas City, Missouri (1955-60).

MEMBERSHIPS, PROFESSIONAL AND CIVIC ACTIVITIES:

Admitted to California Bar and District of Columbia Bar.

Member of California Bar Association, American Bar Association, American Law Institute.

Fellow, American Academy of Arts and Sciences.

International Advisory Board, Israel Democratic Institute (2010-present).

Member, Board of Directors, National Panel CPR: International Institute for Conflict Prevention & Resolution (2010-present).

Member, Board of Trustees, Harvard Hillel (2011 - present)

Member, Board of Directors, Program for Young Negotiators (1995-2005).

Member, Board of Directors, Consensus Building Institute (1994-2008).

Member, Board of Directors, New Israel Fund (1993-2004); Secretary (1999); Treasurer (2000).

Executive Board, Stanford Hillel Foundation, Palo Alto, California (1986); President (1989).

National Academy of Sciences, National Research Council, Panel on Adolescent Pregnancy and Childbearing (1984-89).

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Chair, Jewish Community Federation, Stanford University (1984-86).

Executive Council, The International Society of Family Law (1981-85).

National Academy of Sciences, Committee on Child Development Research and Public Policy (1979-84).

Family Impact Seminar, George Washington University (1976-82).

Board of Trustees, Head-Royce School (1979-80).

Board of Trustees, Berkeley Public Library (1972-80); Vice-chairman (1976-78); Chairman (1974-76).

Harvard Overseer's Committee to Visit the Law School (1972-78).

PUBLICATIONS:

**Books:**

*Bargaining with the Devil: When to Negotiate, When to Fight*, Simon & Schuster, New York, (2010).

*Barriers to Conflict Resolution* (with K. Arrow, et al. eds.) W. W. Norton & Company, New York (1995) reprinted by PON Books (2004).

*Beyond Winning: Negotiating To Create Value in Deals and Disputes* (with S. Peppet and A. Tulumello) Harvard University Press (2000).

*Negotiating on Behalf of Others: Advice to Lawyers, Business Executives, Sports Agents, Diplomats, Politicians and Everybody Else* (with L. Susskind and P. Foster, eds.) Sage Publications, Inc., Thousand Oaks, CA (1999).

*In the Interest of Children: Advocacy, Law Reform & Public Policy*, W.H. Freeman & Co., New York (1985). Paperback edition issued by PON Books, Cambridge, Mass., (1996).

*Dividing The Child: Social and Legal Dilemmas of Custody*, (with E. Maccoby), Harvard University Press, (1992).

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*Child, Family, and State: Problems and Materials on Children and the Law*

- (6<sup>th</sup> ed.) Aspen, New York (2009) (with K. Weisberg).
- (5<sup>th</sup> ed.) Aspen, Gaithersberg (2005) (with K. Weisberg).
- (4<sup>th</sup> ed.) Aspen, Gaithersberg (2000) (with K. Weisberg).
- (3<sup>rd</sup> ed.) Little, Brown & Co., Boston (1995) (with K. Weisberg).
- (2<sup>nd</sup> ed.) Little, Brown & Co., Boston (2005) (with K. Weisberg).
- Little, Brown & Co., Boston (1978).

**Selected Publications -- Dispute Resolution/Economics:**

“To heal divisions among the Jewish people, divide the land,” (with Gilead Sher) Op Ed for JEWISH TELEGRAPHIC AGENCY., (August 2016).

“Is Unilateralism Always Bad? Negotiation Lessons from Israel’s “Unilateral” Gaza Withdrawal,” NEGOTIATION JOURNAL, Volume 30, Number 2, (April 2014) (with Ehud Eiran and Shula Gilad).

“Rethinking the Tension Between Peace and Justice: The International Criminal Prosecutor as Diplomat,” HARVARD NEGOTIATION LAW REVIEW, Volume 18, (April 2014).

"Introduction: A Purposeful Life Well Lived," NEGOTIATION JOURNAL, Volume 29, (March 2013).

"Tribute to Roger Fisher," HARV. L. REV., Volume 126, Number 4 (February 2013).

"Belgium's Loveless Marriage," WALL STREET JOURNAL, (January 6, 2012).

“Israel Deals with the Devil,” WALL STREET JOURNAL, October 17, 2011

“Persistent Nonviolent Conflict with No Reconciliation: The Flemish and Walloons in Belgium,” (with A. Verbeke) DUKE UNIVERSITY JOURNAL OF LAW AND CONTEMPORARY PROBLEMS, Volume 72, Issue 2(Spring 2009).

"Ethnic Conflicts: Flemings and Walloons, Palestinians and Israelis," DAEDALUS, Volume 136, Number 1 (2007).

“La théorie de la négociation Utile pour la Belgique,” in BYE-BYE BELGIUM pp.589-616 (Philippe Dutilleul ed) (2006) (with Alain Verbeke).

“When Not to Negotiate,” in THE NEGOTIATORS FIELDBOOK (A. Schneider and C. Honeyman, eds) (2006) (with Gabriella Blum).

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“Barriers to Progress at the Negotiation Table: Internal Conflicts Among Israelis and Among Palestinians,” (with E. Eiran and S. Mitter) NEVADA LAW JOURNAL, Volume 6, Issue 2(2005/2006).

“Discord ‘Behind the Table’: The Internal Conflict Among Israeli Jews Concerning the Future of Settlements in the West Bank and Gaza,” (with Ehud Eiran) JOURNAL OF DISPUTE RESOLUTION, Winter (2005/2006).

“Foreword,” (with F. Sander) HARVARD NEGOTIATION LAW REVIEW, Vol. 10 (2005).

“What We Have Learned About Teaching Multiparty Negotiation,” (with Larry Susskind, Lukasz Rozdeiczer, and Boyd Fuller), NEGOTIATION JOURNAL, Volume 21, Number 3 (July 2005).

“The Internal Israeli Conflict: The Past, Present and Future of the Jewish West Bank/Gaza Settlements,” (Special Ed.) NEGOTIATION JOURNAL, Volume 21, Number 2, April (2005).

“When Not Negotiate: A Negotiation Imperialist Reflects on Appropriate Limits,” 20 UNIVERSITY OF COLORADO LAW REVIEW 101 (2003).

“Retablir le dialogue social au sein del lOrchestre symphonique de San Francisco,” PERSONNEL MENSUEL No. 438 (Mars-Avril 2003).

“Strategic Barriers to Dispute Resolution: A Comparison of Bilateral and Multilateral Negotiations,” 159 JOURNAL OF INSTITUTIONAL THEORETICAL ECONOMICS No.1 (March 2003); 8 HARVARD NEGOTIATION LAW REVIEW 1 (2003).

“Afghanistan: Negotiating in the Face of Terrorism,” CONFLICT RESOLUTION INTERNATIONAL QUARTERLY, Volume 19, Number 4 (2002).

"A Model of Efficient Discovery," (with R. Wilson) 25 GAMES AND ECONOMIC BEHAVIOR (1998).

"Alternative Dispute Resolution," contribution to THE NEW PALGRAVE DICTIONARY OF ECONOMICS AND THE LAW (P. Newman, ed.) Grove Dictionaries, Inc., New York (1998).

"Commentary: Negotiation, Settlement, and the Contingent Fee," 47 DEPAUL L. REV. No. 2 (Winter 1998).

"Lessons of the IBM-Fujitsu Arbitration: How Disputants Can Work Together to Solve Deeper Conflicts" (with J. Greenberg) 4 DISPUTE RESOLUTION MAGAZINE No. 3 (Spring 1998).

"Turning Litigation into an Opportunity," (with D. Tulumello) Op Ed in HARVARD LAW RECORD., (November 1997).

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"Does Disputing Through Agents Enhance Cooperation? Experimental Evidence" (with R. Croson) 26 J. LEGAL STUD. No. 2 (June 1997).

"The Tension Between Empathy and Assertiveness" (with S. Peppet and A. Tulumello) 12 NEG'N J. 217 (July 1996).

"Foreward" (with F. Sander) 1 HARV. NEG'N L. REV. 1 (Spring 1996).

"Scaling the Stonewall: Retaining Lawyers to Bolster Credibility" (with D. Croson) 1 HARV. NEG'N L. REV. 65 (Spring 1996).

"Cooperation and Competition in Litigation: Can Lawyers Dampen Conflict?," (with R. Gilson), chapter in BARRIERS, (k. Arrow et al, Eds.), W. W. Norton & Company, Inc. New York, (June 1995).

ANTITRUST: GILBERT LAW SUMMARY, (with T. Jorde and M. Lemley) (9<sup>th</sup> ed.) (1995).

"Foreword: Business Lawyers and Value Creation for Clients," (with R. Gilson) 74 OR. L. REV. 1 No. 1 (Spring 1995).

"Disputing Through Agents: Cooperation Between Lawyers in Litigation" (with R. Gilson), 94 COLUM L. REV. 509 No. 2 (March 1994).

"Why Negotiations Fail: An Exploration of Barriers to the Resolution of Conflict," 8 OHIO ST. J. ON DISP. RESOL. 235 No. 2 (1993).

"Water Reform Beyond the Drought," (with T. Melling) Op Ed in the S.F. CHRON. A20 (March 13, 1993).

"Creating Value Through Process Design: The IBM - Fujitsu Arbitration," ARB. J. (September 1992).

"Saddam's Folly: Playing Chicken With George Bush," (with R. Birke), 8 NEG'N J. 41 No. 1 (January 1992).

Commentary for Centennial Issue, "The Most Cited Articles from THE YALE LAW JOURNAL," (Fred Shapiro, Ed.), 100 YALE L.J. 1494 (1991).

"The Implicit Contract for Law Firm Associates: *Ex Post* Opportunism and *Ex Ante* Bonding," (with R. Gilson), in THE FIRM AS A NEXUS OF TREATIES (O. Williamson, B. Gustafsson and M. Aoki, eds.) Sage Publications, London (1990).

"Beyond Litigation," 23 STAN. LAW. 3 No. 2 (1989).



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"Rational Bargaining and Market Efficiency: Understanding Pennzoil v. Texaco," (with R. Wilson) 75 U. VA. L. REV. No. 2 (March 1989).

"Coming of Age in a Corporate Law Firm: The Economics of Associate Career Patterns," (with R. Gilson), 41 STAN. L. REV. 567 No. 3 (February 1989).

"The Mystery of the Texaco Case," WALL ST. J., (November 27, 1987).

"Sharing Among the Human Capitalists: An Economic Inquiry Into the Corporate Law Firm and How Partners Split Profits," (with R. Gilson) 37 STAN. L. REV. 313 (1985).

"Dividing the Pie: An Economic Inquiry into Law Firm Profit Sharing," (with R. Gilson) 19 STAN. LAW. 4 No. 1 (Fall 1984).

"Spreading the Word About Spreadsheet Software," (with William J. Kelley III), 4 CAL. Lawyer 5 No. 4 (June 1984).

ANTITRUST: GILBERT LAW SUMMARY, (with T. Jorde) (8<sup>th</sup> ed.) (1983-84).

"Winners and Losers in the Manville Bankruptcy," (with J. Bulow and T. Jackson) Op Ed in WALL ST. J., (November 1982).

Bargaining in the Shadow of the Law: A Testable Model of Strategic Behavior," (with R. Cooter and S. Marks) 11 J. LEGAL STUD. 225 (1982).

"Bargaining in the Shadow of the Law: The Case of Divorce" (with L. Kornhauser), 88 YALE L.J. 950 (April 1979).

"An American Lawyer's Views of Section 40 of the Trade Practices Act," 1 U. NEW SOUTH WALES L. J. 121 (1975).

"Transportation Pricing and the Theory of the Second Best," In TECHNIQUES OF TRANSPORT PLANNING: PRICE AND PROGRAM EVALUATION (John R. Meyer, ed.) (1970).

### **Articles and Chapters (Family Law and Children and the Law):**

"Child Custody Revisited," 77 LAW & CONTEMPORARY PROBLEMS 249 (2014).

"Facing the Dilemmas of Child Custody," (with E. Maccoby), 10 THE VIRGINIA JOURNAL OF SOCIAL POLICY AND THE LAW No.1 (Fall 2002).

"Divorce," contribution to THE NEW PALGRAVE DICTIONARY OF ECONOMICS AND THE LAW (P. Newman, ed.) Grove Dictionaries, Inc., New York (1998).

"Die Schwierigkeiten der Sorgerechtsregelung" 42 FAMRZ No. 1 (January 1995).

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"Private Ordering Revisited: What Custodial Arrangements Are Parents Negotiating?," (with E. Maccoby, C. Depner, and C. Albiston) in *DIVORCE REFORM AT THE CROSSROADS* (S. Sugarman & H. Kay, eds.) Yale University Press, New Haven (1990).

"Enforcing Divorce Settlements: Evidence from Child Support Compliance and Award Modifications," (with H. Peters, L. Argys, E. Maccoby), 30 *DEMOGRAPHY* 719 No. 4 (November 1993).

"Post-Divorce Roles of Mothers and Fathers in the Lives of Their Children," (with E. Maccoby, C. Buchanan, and S. Dornbusch), 7 *J. FAM. PSYCHOL.* 24 No. 1 (1993).

"Puzzling over Children's Rights," (with S. Sugarman & J. Coons), *B.Y.U. L. REV.* 307 No. 1 (1991).

"Does Joint Legal Custody Matter?," (with C. Albiston and E. Maccoby), 2 *STAN. L. & POL'Y REV.* 168 (Spring 1990).

"The Guardianship of Phillip B.: Jay Spears' Achievement", 40 *STAN. L. REV.* 4 (April 1988).

"Custody of Children Following Divorce," (with E. Maccoby and C. Depner), in *IMPACT OF DIVORCE, SINGLE PARENTING, AND STEPPARENTING ON CHILDREN* (M. Hetherington & J. Arasten, eds.) Lawrence Erlbaum Associates, Hillsdale, New Jersey (1988).

"Children's Rights," 1 *ENCYCLOPEDIA CONST. L.* 246 L. Levy, K. Karst & D. Mahoney, eds.)(1986).

"Juvenile Proceedings," *Id.* At 1090.

"In Re Gault," *Id.* At 835

"Ginsberg v. New York," *Id.* At 846.

"Child Advocacy: A Look at Test-Case Litigation," 20 *STAN LAW.* 15 No. 6 (Spring 1986).

"Bellotti v. Baird: A Hard Case," in *IN THE INTEREST OF CHILDREN: ADVOCACY, LAW REFORM & PUBLIC POLICY*, W.H. Freeman & Co., New York (1985).

"Divorce Bargaining: The Limits on Private Ordering," 18 *U. MICH. J.L. REF.* 1015 (Summer 1985), published as chapter in *ALTERNATIVE METHODS OF RESOLVING FAMILY DISPUTES* (J. Eekelaar & S. Katz, eds.) Butterworths (1984).

"Two Puzzles," Symposium on Severely Handicapped Newborns, *ARIZ. ST. L.J.* 667 (1984).

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"The Best Interests Syndrome as the Allocation of Power in Child Care," (with E. Szwed), chapter in PROVIDING CIVIL JUSTICE FOR THE CHILD, (H. Geech & E. Szwed, eds.), Edward Arnold, London (1984).

"The Public/Private Dichotomy: Political Disagreement and Academic Repudiation," 130 U. PA. L. REV. 1429 (1982).

"Using Jail for Child Support Enforcement," 48 U. CHI. L. REV. 338 (1981).

"The 'Kid-Vid' Crusade," (with S. Foote), THE PUBLIC INTEREST 90 No. 612 (Fall 1980).

"Bargaining in the Shadow of the Law: The Case of Divorce" (with L. Kornhauser), 88 YALE L.J. 950 (April 1979).

"Children's Rights: Beyond Kiddie Libbers and Child Savers," 8 J. CLINICAL CHILD PYSCHOL.163 No. 3 (Fall 1978).

"Children's Rights: Legal and Ethical Dilemmas," 41 THE PHAROS 2 No. 2 (April 1978).

"Foster Care: In Whose Best Interest?" 43 HARV. EDUC. REV. 599 No. 4 (Nov. 1973), reprinted in THE RIGHTS OF CHILDREN, Harvard Education Review, Cambridge, Mass. (1974), and in HAVING CHILDREN: PHILOSOPHICAL AND LEGAL REFLECTIONS ON PARENTHOOD (O. O'Neill & W. Ruddick, eds.) Oxford University Press, New York (1978).

"Toward A Theory of Children's Rights," (with J. Coons) 28 HARV. L. SCH. BULL. 18 No. 3 (Spring 1977).

"Reforming Foster Care," ACLU CHILDREN'S RIGHTS REPORT, Vol. 1, No. 6 (March 1977).

"Foster Care Reform," ALL IN THE FAMILY, December 1976, No. 4 (AALS Family and Juvenile Law Section).

"Child Custody Adjudication: Judicial Functions in the Face of Indeterminacy," 39 LAW & CONTEMP. PROBL. 226 No.3 (1975).

Review, "Beyond the Best Interests of the Child", 14 J. AM. ACAD. CHILD PSYCHIATRY No. 1 (Winter 1975).

"Was stimmit nicht mit der Forml 'Kindeswohl'?" FAMILIENRECHT at 1 (January 1975).