

conference does not even out differences among the panels. The conference does not operate as a check or guide on the panels. If it did, the outcomes of the panels' deliberations would not be significantly different. This appears to be an important difference between Canada and the United States, a difference that reflects the institutional arrangements adopted by Canada's Court. By devolving leave decisions to panels, the Court has created a situation in which the outcomes of leave to appeal applications varies according to the panel to which they are assigned.

But before this conclusion can be accepted, explanations for these differences must be considered. For example, did the panels review dissimilar kinds of applications? Is the explanation for different grant rates due solely to differences in the substance or issues raised in the applications? If so, it would appear that the distribution of leave applications to the panels is not random. It is also possible, however, that the applications are similar in substance but the panels apply different jurisprudential standards when reviewing them. Alternatively the ideological composition of the panels may matter. As the panels are reformed or rearranged, new combinations of policy outlooks or judicial preferences emerge and thus produce higher or lower rates of leave being allowed.

These are only a few of the many questions that will be addressed by this project. Using the four key perspectives from the American literature to guide the analysis, this project has collected a substantial mass of data to test whether these perspectives can help explain how the Supreme Court of Canada decides to decide. In the end, the hope behind the project is to better understand the agenda setting process in Canada and to develop a theoretical framework of this process that can be extended to include other high courts in developed democracies.

¹ Prior to this time, leave to appeal was granted by a single justice. The change was introduced in 1976 after considerable criticism of a justice who denied leave in a 4:1 majority in several cases. The basic purpose of this project is to examine the process of leave to appeal. Justice Sopinka is vague on this point. He and his co-author write: "The panel nature of the application to leave to appeal is a key feature of the process." (Gidycz, 1993, 171).