

not stand up under close inspection. A distinction must be made therefore between alleged conflicts and real conflicts; the former may put a petition on the discuss list but the latter matters more with regard to whether the petition is granted (Ulmer 1984; Estreicher and Sexton 1986; Caldeira and Wright 1990). In Canada, one of the items coded from the attorneys' factums were arguments alleging conflicts among the lower courts.

Operationalization of the litigant status variable follows the coding rules used by McCormick (1993) in his test of the "party capability theory" in Canada and by Sheehan, Mishler, and Songer (1992) in the United States. These rules rank categories of direct parties in terms of their presumed resources and expertise. Indicators of whether attorneys are repeat players will rest on their frequency of appearance at the lower court, leave, and merit stages. Data from the applications and merits decisions are being used to develop indicators of frequency of appearance. Further information is being collected through a mail questionnaire to attorneys. The questionnaire replicates McIntyre's (1993) questionnaire with suitable modifications for the Canadian context. Information from the questionnaires will assist in operationalizing lawyer-related variables in testing the litigant resource hypothesis, and contribute to the comparison with the United States. In particular, the questionnaire in conjunction with the interviews will help in delineating the characteristics of the Canada's Supreme Court bar.

#### **THE AGENDA SETTING PROCESS IN CANADA: A PRELIMINARY OVERVIEW**

In October 1996, interviews with 30 "repeat player" attorneys and former clerks to the Supreme Court were conducted in Toronto. The purpose of these interviews was to develop a better understanding of the process from the point of view of the attorneys and clerks. They also provided a foundation for developing more detailed interviews later in the project as well as for preparing the mail questionnaires that will be sent to all attorneys who filed leave applications during 1992-1995. What follows is a preliminary sketch of the process based in part on these interviews and on limited analysis of the case-level data dealing with the panel decisions. The basic steps making up the process are illustrated in Figure 1.