Rhonda Powell
Otago

This year’s recipient of the New Zealand Law Foundation Ethel Benjamin Prize will use the award to further her doctoral research on a subject that has received both court and media attention in New Zealand recently - the topic of executive detention.

Rhonda Powell began a DPhil at the Centre for Socio-Legal Studies, University of Oxford, in October 2004. She will use the $25,000 award granted this year for the second year of her research.

From Wellington, Rhonda graduated from Otago University with a BA in political studies and LLB Honours before going on to the University of Nottingham where she gained an LLM, with distinction, in human rights law.

"I hope that this research will both contribute to the public debate about executive detention and provide some guidelines, principles or objectives for the New Zealand government and other governments when contemplating security legislation that interferes with civil liberties," Rhonda says.

"Executive detention is not a modern phenomenon. Common law protections such as the writ of habeas corpus grew from the widespread use of arbitrary detention in years gone by.

"The British used executive detention in the run-up to and throughout both the First and Second World Wars in order to curb potential security risks. The plight of Japanese Americans who were detained during the Second World War and who have recently received compensation from the United States is another example. In New Zealand 'enemy aliens' were often detained, as were conscientious objectors.

"More recently, anti-terrorism legislation has been passed in many western countries, often including extensive powers of preventative detention of suspected terrorists, without the procedural safeguards of the criminal law or the commission of any crime. At the same time the practice of detaining spontaneous asylum seekers has become prevalent, due to the same security fears.

"The well-publicised New Zealand case of Ahmed Zaoui is a good example of this," she says.

Executive detention is often explained as being required in the name of ‘security’. In other words, in times of crisis, the executive claims greater powers than is usual, and citizens forfeit some of their rights."
That, Rhonda says, raises a number of interesting questions which she will address as part of her thesis. The first part of the thesis will be an analysis of classical and modern liberal theory pertaining to the relationship between liberty and security. In the second part, she will conduct three empirical case studies: war-time detention law, anti-terrorism detention law and immigration detention law.

Following her doctoral studies, Rhonda plans an academic legal career. The areas she envisions teaching would include public law, legal theory and human rights law. As a legal academic, she plans researching the impact law has on society.

The Law Foundation established the Ethel Benjamin scholarship to commemorate New Zealand’s first woman lawyer. It is awarded each year to outstanding women scholars to support post-graduate research in law that encompasses the Foundation’s wider objectives, in particular research that will protect and promote the interests of the public in relation to legal matters in New Zealand. Most years, two scholarships are awarded.