

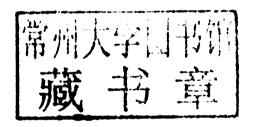
Crime, Governance and Existential Predicaments

Edited by

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and

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Introduction

James Hardie-Bick and Ronnie Lippens

What is existentialism?

That which characterises human existence, according to existentialists, is a certain openness, or indeed indeterminacy. Without this openness, without this indeterminacy, there would simply be no human existence. All that is deemed essence, in human existence, flows from this very openness, and carries, within it, the indeterminacy of its origins. Nothing in human existence will last forever. Human existence floats on indeterminacy. The present is future (i.e. the potential for the new) to a much greater extent than it is the determined result of a weighty past.

Precious little, if anything, in human existence, is cast in stone. Human existence takes place and shape through transformation. That which is human is becoming. Existentialists such as Sartre (e.g. 1940, 1943, 1946, 1952) gave this process of the becoming of human existence a name: choice. Human existence comes about through choice. But that of course presupposes the existence of an entity that contemplates its existence, that decides, and that chooses how it will become. That entity is consciousness.

Consciousness is, itself, empty. It is a void. It has no clear essence, and yet, it exists; it exists as a void, as a hole of indeterminacy in being. Precisely because it is a void, filled only with radical indeterminacy, it is the location of reflection. It is there, in the void, that the world is reflected, indeed, is reflected upon. If consciousness were no void, if it were filled with some substance or other, there would be no entity that had the capacity to reflect upon the world, to contemplate, to decide, and, ultimately, to make choices. In other words, there would be no entity that had the capacity to act.

Since consciousness is, itself, void, it always and inevitably is consciousness of something. It manifests itself only if and when it reflects upon

something; or, to put it slightly differently, it manifests itself only if and when something is reflected upon, indeed is reflected within the void of consciousness. Consciousness is intentional. It resides at the heart of intentionally acting entities. Consciousness (the location of intentional action) is what makes human existence become. The typically human capacity to become, and to become ever anew, resides in the undetermined void of intentional consciousness. Certainly, much in human existence is a jumble of unintended consequences. But that is not the issue here. The issue is that unintended consequences are themselves the result of intentional action. They are the result of *choice*.

Human existence is *chosen* existence. It is through choice that consciousness will negate that which is. Choice negates that which is. Granted, more often than not choice wilfully reproduces the status quo. But here again, that is not the issue. The issue is that, with each choice made, the potential for the transformation of that which is (so typical of human existence) gets to be mobilised. It is this very potential that underpins all human action, every single human choice. Without this potential for transformation, or negation, no human choice, no human action, no human becoming would ever be possible.

Human existence is existence in radical freedom. 'Freedom' here means that in every possible instance of human existence, choice will be possible. However, now that choice will never be unlimited. Never. In every possible instance of human existence choice will inevitably be restricted: only a limited number of avenues or courses of action will have been contemplated, and deemed possible or desirable by consciousness. But (and this is the point) choice there will be. Always. And that choice will be made in utter, complete freedom. That choice will be made from within the hole of radical indeterminacy (nothingness, says Sartre) that dwells at the heart of human existence – that dwells at the heart of each and every human being's existence. The future is never cast in stone. Never. Human existence can always choose to be otherwise. Always.

However much accepted and indeed popular this fundamentally humanist existentialist insight might have been during the forward-looking 1940s and 1950s, the ascent of structuralism during the 1960s, and of post-structuralism from the 1980s onwards, buried existentialism under what might be called an avalanche of a-humanistic theorising. The quite pervasive aura of a number of other, equally a-humanistic, sociological perspectives and models (systems theory, most conspicuously) contributed to the slow but gradual demise of existentialist thought. But that was then.

Existentialism is now slowly making a comeback (for an overview, see Crewe & Lippens 2009, pp. 1-11, in particular). The contingency and indeterminacy of our age – some still call it postmodernity – is probably not completely alien to this revival. By no means though is existentialist thought the only strand of intellectual effort that tries to get to grips with the fluid (see e.g. Bauman 2000) features of late, very late modernity. Complexity theory (or chaos theory, as it is often called) produced a body of literature - roughly between 1990 and 2005 - that focused to a very significant extent on the indeterminacy of the world, of life, and of human existence. One only needs to look at works such as Henry & Milovanovic's classic Constitutive Criminology (1996) to appreciate the tremendous effort made by complexity theory-inspired criminologists, for example. And recent post-structuralist work that deploys Deleuzoguattarism in order to make sense of radical contingency (see e.g. Arrigo & Milovanovic 2009) is very much worth a closer look. But neither complexity theory nor Deleuzoguattarism tackle the issue of consciousness, of the void, of choice, of intentional action. Indeterminacy in human existence, according to this literature, is just ... indeterminacy. It differs in no way from the indeterminacy that underpins Newton's and other physical laws of nature. There is nothing specific about human existence. There is nothing worth noting about human consciousness. Human consciousness is no void. It is not where reflection takes place. It is a chimera, a mere illusory effect (still according to a-humanism) of the play of indeterminacy that underpins all transformation in all matter, indeed in all that is the matter. Becoming, in this perspective, is the mere mattering forth, if you wish, of the world.

Existentialism however accepts (or assumes, depending on your point of view) that in human existence there is such a thing called consciousness, that it is a void, that it is contemplative and reflective, that it is intentional, that it has the capacity to imagine that which is not (or that which is not yet), that it is inevitably local and localised, and that it brings about the human world through choice. One of us, in this very collection, has tried to paint, with all too broad a brush stroke, some of the issues involved here (see Lippens, Chapter 8). Whether or not this humanist point of view really is what human existence actually, factually, is all about, or whether it is the a-humanists who have got their facts right, is a matter which we may not hope to be able to resolve and certainly not here, in a single collection of essays. Suffice to state, however, that the existentialist focus on reflective contemplation and on intentional choice as the engine of human becoming has at least one practical benefit going for it: it provides us with a lever to influence the extent and direction of human becoming. This lever, that is, consciousness, is one that existentialists argue we should use when change is due. In order for there to be change, we will have to work on consciousness first. That means we will have to work on reflective contemplation and on intentional choice. In human existence no change can come about without it having been contemplated and then *chosen*. Anyone involved in policy (e.g. in criminal policy, or regulation, or governance) or in any kind of activity and practice (e.g. criminal justice practice, restorative justice, and so on) could do worse than ponder that the problem of human becoming, and therefore of human transformation, is, first and foremost, a problem of choice, and not so much, if at all, a problem of pre-structured development or evolution.

Let us be clear: human existence is not only a matter of choice. Hormones exist. Affection exists, as does love, or hatred. The visceral dimension of human existence is very real. Human existence is also biological, physical, mechanical existence. But (and here is the crux of the matter) it is not just mechanical, physical or biological existence. Ultimately its law (if law there must be) is one of radical freedom. This is the inescapable freedom to choose within restrictions, whether real or perceived. Yes, the level of hormones was skyrocketing. Yes, the biography was tragic. Yes, the affinities were tremendous. Yes, the visceral sentiment was unmistakable. Yes, all those restrictions were in place, pre-structuring the field as it were. But choice there was. Radical, free choice.

Existentialism, crime and governance

The instances when or where criminologists (or, more broadly, specialists in governance studies) made efforts to explore or apply existentialist thought to aetiological questions such as criminal careers or desistance, or to problems of criminal justice, restorative justice, policy, community building, and so on, have been very few and very far between. Particularly the 1970s, 1980s and 1990s were short of, indeed lacking in, existentialist-inspired criminological reflection. Attempts to provide an overview of, as well as additions to this work were made in a few collections (see e.g. Crewe & Lippens 2009, already mentioned) and textbooks (e.g. Lippens 2009). That a criminal career is, first and foremost, a matter of *choice*, is for many criminologists still too unbearable an insight. That criminal justice, or restorative justice, community work, or regulation, and so on are equally matters of choice is perhaps a more accepted view among criminologists. But that doesn't mean they have turned to the

body of literature called 'existentialism' (the body of literature par excellence to deal with the issue of choice) for inspiration. Quite the opposite has been the case. Now it could very well have been that, by the early 1960s, academics (including criminologists) were quite simply tiring of existentialism, which, granted, had been dominating academia between. say, 1945 and 1960. Boredom, exhaustion, and ennui are human ... all too human (to evoke Nietzsche). Also in academia there would have been many who felt that the time had come for something new. The aforementioned strands of thought and perspectives were there to oblige. Their a-humanism would have chimed, at least to some extent, with the sense of stability that came to characterise the more or less 'systemic' workings of the welfare state in Western democracies. But that stability has now gone. In its place came instability and sheer contingency. The attempt to get to grips with all this instability and contingency, with the help of a whole series of a-humanistic 'post' isms, and with complexity theory, only provided temporary relief. At the most basic level those isms tell us that contingency and indeterminacy are the very fundamental principles whence all existence flows, not just human existence. That may be so, but it offers little insight into the specific humanness of human existence. It doesn't tell us much about how contingency and indeterminacy in human existence take a *specific* shape, that is, the shape, however elusive, of consciousness, of reflective contemplation, and of intentional choice. Anyone who is even remotely interested in how human beings become (and criminologists, as well as experts in regulation and governance really ought to be interested in that) could do worse than make consciousness, contemplation, and choice their foremost topic of study.

With this collection of essays we hope to be able, on the one hand, to retrieve some of the existentialist insights into human existence (largely lost now), and, on the other, to contribute to a gathering momentum of renewed interest in the underpinnings of our existential age. Our focus will be on the existential dimension of, very broadly put, contemporary regulation, governance, and criminal justice practice. It has often been said that our age is one that witnesses considerable levels of de-traditionalisation and de-institutionalisation. Much of the systemic, patterned features of human existence is gradually fading away. Reflection, contemplation, decision and the necessity to choose are all now much more part of life than was the case previously, in a now bygone age. Some have called this age of ours 'reflexive modernity' (e.g. Beck, Giddens & Lash 1994) - somewhat erroneously perhaps as 'reflective' modernity might have been a more appropriate name. Reflective action, sometimes reflective agony indeed, has become quite predominant. This is the agony that goes hand in hand with the necessity, real or perceived, to make decisions and choices, incessantly, unrelentingly. Political choices, policy choices, aesthetic choices, moral choices, pragmatic choices ...: the well of choices that have to be mulled over, reflected upon, taken account of, and ultimately made from within unbearable and inescapable freedom (however paradoxical that may sound) has now truly burst to the surface. In an age, for example, when, as some have it, governance has turned utterly 'nodal' (e.g. Shearing & Wood 2003; Burris et al. 2005), nodal activity is boiling down to the reflective assemblage and re-assemblage of an ever-proliferating number of fragments of different 'logics', scripts, strategies, tactics, and improvisation. Such assemblages and re-assemblages carry within them the constant potential for invention and change. The process which underpins nodal activity is one that existentialists have analysed in another existential age. Call it indeterminacy. Call it freedom. Call it choice.

The contributions

The first chapter in this collection considers both Sartre's existentialism and Goffman's dramaturgical model of social interaction, and draws out key synergies between their work. James Hardie-Bick and Phil Hadfield argue that despite important differences, there are parallels that can be identified. In particular, they suggest that both Goffman and Sartre maintain 'that there is no essential character behind one's acts' and demonstrate how the self 'is free to perform a variety of official and unofficial selves'. In this respect, they argue, Goffman shows more than just a familiarity with Sartre's existentialism. The chapter provides an account of Sartre's phenomenological ontology and considers examples of 'bad faith' to demonstrate similarities between descriptions of everyday life in both Sartre's Being and Nothingness and Goffman's The Presentation of Self in Everyday Life. Their chapter explains the importance of acknowledging Goffman's intellectual affinities with Sartre's existentialism and considers how Goffman's concepts and themes have the potential to influence sociological studies into many areas of crime and incivility.

In Chapter 2 the focus shifts from Goffman to the work of Foucault. In this chapter Claudius Messner is concerned with whether it is possible to find an existentialist motif in Foucault's work. Although Foucault is well known to have distanced himself from Sartre's philosophy, Messner argues that the young Foucault still found himself 'captivated'

by Merleau-Ponty's phenomenology. Messner examines Sartre's phenomenological ontology and discusses why Merleau-Ponty was critical of Sartre's description of being. In particular, we learn how Merleau-Ponty criticised Sartre's 'radical dichotomy' between the for-itself and the in-itself for failing to provide a satisfactory account of human existence. Messner explains Merleau-Ponty's main objections to Sartre's ontology, and by examining their differences in relation to consciousness, freedom and choice he also provides insightful overviews of both philosophical positions. However, despite their differences, for Foucault both philosophers were still seen to be representatives of the philosophy of experience. In their attempt to understand the significance of human experience-in-the-world, Foucault argues that the existentialists find themselves trapped by an 'abstract humanism' and 'dogmatic anthropocentrism'. Messner considers Foucault's main objections to the existentialists and examines why Foucault rejected Sartre's philosophy of consciousness. In the light of such criticisms, Messner goes on to consider Foucault's project in relation to philosophical archaeology, genealogy, power and subjectivity. Finally Messner turns his attention to Foucault's later work by specifically concentrating on the problems of 'governance', 'subjugation' and 'resistance' and comments on how Foucault's main focus of attention shifts from power to the subject. As Messner argues, far from being trivial, it is this shift that can be found in his later work that leads Foucault to reconceptualise his understanding of power.

The existential dilemmas in penal decision-making are explored in Chapter 3. Simon Green argues that while existentialism may have been eclipsed by more recent theoretical stirrings, key existential questions around freedom, choice, conformity and anxiety remain pertinent. Green discusses insights that can be gained from studying The Oresteia, a trilogy of plays by the Greek playwright Aeschylus. He explores the shifting meanings associated with punishment and proceeds to examine the structural and cultural conditions that have redefined the boundaries between public and private responsibilities. He argues that these factors, together with the politics of neo-liberalism, are 'conspiring to reintroduce the private individual back into penal decision-making'. Taking into account the emotional content of contemporary public discourses about crime and punishment together with the introduction of punishments that are designed to provoke an emotional response, he argues that an existential understanding of the penal process is now of crucial importance. Green addresses many of the theoretical similarities between existentialists and theorists of late-modernity. Although there are many differences between the work of Jean-Paul Sartre and Anthony Giddens, for example, there are also significant similarities in relation to self-identity, choice and anxiety – all of which, Green argues, are particularly salient in late-modern society. The social, cultural and political forces at work in late-modern societies place a great deal of emphasis on individual freedoms and responsibilities and it is precisely here that existentialism can assist our understanding of how people experience the penal process. Existential philosophy is useful, Green argues, for drawing attention to some of the unresolved pressures and tensions in a penal decision-making process that attempts to accommodate both private concerns and collective priorities.

In Chapter 4 James Hardie-Bick examines the intellectual currents that shifted attention away from existentialist philosophy and explores Sartre's views on freedom in relation to the experiences of everyday life in total institutions. The chapter draws on empirical research on total institutions and examines the personal accounts of those who survived and reflected on their experiences of life within the German concentration camps of the Second World War. The main aim of the chapter is to consider Sartre's notion of 'ontological freedom', the belief that, regardless of their circumstances, human beings are always free to stand back, assess and give meaning to their lives. Hardie-Bick argues that the empirical findings into how people behave and adapt in tightly monitored and closed environments can be seen to support Sartre's theory of consciousness. Even the reflections of those who survived the most extreme and brutal living conditions often support Sartre's views on freedom and choice. The chapter critically engages with Sartre's philosophy and draws on Simone de Beauvoir's distinction between 'ontological' and 'moral' freedom to develop and build upon Sartre's ontology. Hardie-Bick suggests that research on how people survive in total institutions together with the personal accounts of those who have survived the most extreme and hostile living conditions hold important lessons for social scientists and highlight key aspects of Sartre's existentialism.

In Chapter 5 Danny O'Rourke-Dicarlo and James Sheptycki directly engage with the question of what existential philosophy can tell us about policing and suggest how existential concerns of authenticity, freedom and choice are especially relevant to the everyday strategies and practices of the constable. In particular, they argue that Sartre's philosophy can highlight 'some contradictory predicaments in contemporary policing'. Their chapter explores how a practicable understanding of 'ethical action' can be derived from Sartre's philosophy and directly applied to the working life of the constable. Their discussion of 'bad faith' demonstrates

the concept's relevance for exploring the various dilemmas constables experience and the rationalisations that attempt to justify and excuse their (over)reactions to situations requiring intervention. Much of their discussion concentrates on Sartre's philosophy in Being and Nothingness, but O'Rourke and Sheptycki also refer to Sartre's concept of the 'practicoinert', a concept developed by Sartre in his later work Critique of Dialectical Reason. Their discussion explains why the 'practico-inert' is of great importance for illuminating the tensions of policing and further supports their argument concerning the relevance of existential philosophy for developing a Constabulary Ethic. Their discussion of a fatal tasering incident in Vancouver International Airport in 2007 highlights how police officers' 'bad faith' can often result in 'unnecessary and excessive' force involving the 'complete abdication of personal responsibility'. O'Rourke and Sheptycki show how Sartre's existentialism offers an insightful way of thinking about engagement, responsibility, choice and action and explain why existentialist thought has the potential to uphold the values of human freedom and serve to create positive change.

Chapter 6 is specifically concerned with Heidegger's existentialphenomenology and focuses on how Heidegger's philosophy of being can provide a phenomenological formulation of restorative justice and desistance. David Polizzi argues that placing the restorative process within the context of an existential-phenomenological formulation creates possibilities for understanding the 'transformation of being-in-the-worldas-offender relative to the dictates of the they-self of the criminal justice system'. Polizzi explains concepts such as the 'they-self', 'being with' and 'being in' and explores how the 'care structure' represents Heidegger's views on the 'ontological character of being-in-the-world'. Polizzi's discussion of *The Autobiography of Malcolm X* further demonstrates the relevance and applicability of Heidegger's concepts. After providing a thorough overview of the phenomenology of social existence, Polizzi presents an historical account of restorative justice, explores the question of what actually is being restored and why such a question remains unanswered or incomplete. Polizzi argues that an alternative to both restorative justice and desistance can be provided from Heidegger's existential-phenomenological perspective. This chapter offers an astute account of how both restorative justice and desistance can be seen from the 'the vantage point' of Heidegger's existential phenomenology.

In Chapter 7 Don Crewe addresses recent criminological debates concerning the concept of 'crime' and 'social harm' and the problematic nature of the criminological object. Proponents of the 'social harm' approach maintain that criminology should define its object in terms of the social harm caused by problematic behaviour. Replacing the concept of 'crime' with that of 'social harm', it is argued, allows criminologists to focus their analysis on behaviour that causes a great deal of harm, regardless of the legality surrounding the problematic behaviour. Crewe's chapter provides a critique of both models and maintains that both the 'crime' and 'harm' perspectives remain 'guilty' of some of the same flaws. Crewe suggests that engaging with the study of ethics via the work of existentialists may provide a useful way to overcome the limitations of both approaches and may well provide important answers 'concerning the proper object of criminological study'. Yet Crewe remains unconvinced by traditional existentialist accounts that focus on freedom, responsibility and authenticity. Instead, he introduces the work of Emmanuel Levinas and argues that this can provide a radically different and more adequate ethic of freedom and responsibility. Crewe suggests that Levinas' notion of 'infinite responsibility' provides criminologists with an alternative way of reconceiving the object of criminological study. In this respect Crewe is highlighting how Levinas' work can be viewed as offering a powerful challenge to the entire criminological project.

In the final chapter Ronnie Lippens reflects on late modern 'control society' as a particular form of life. The aim of his chapter is to explore the origins of control society, which, he argues, can be found in the immediate period after the Second World War. Of particular importance here is existentialism's focus on 'radical freedom and choice', which is seen to be just as much part of control society as the idea of structured and rampant control. The question 'How do forms of life emerge?' is answered by examining both vitalism (via Spinoza, Bergson, Nietzsche and Deleuze and Guattari) and existentialism (especially the work of Sartre). The vitalist answer to this question focuses on how the momentum of life, 'élan vital', is unstoppable. It is an indivisible force that 'bursts forth' and is 'pure movement'. Sartre's existentialist answer focuses on how new forms of life emerge through radical choice and how human subjectivity is formed around spaces of nothingness. For Sartre, nothingness is at the heart of being and it is this gap, this nothingness, that makes people completely responsible for their actions. Lippens makes connections between vitalism and existentialism (especially between Bergson's 'gaps' and Sartre's 'nothingness') before examining the late modern desire and will to absolute sovereignty as a paradoxical form of life. He suggests that this form of life is paradoxical as 'To be absolutely sovereign is to be (in) nothingness; it is to be void.' The immediate consequence of this is that 'All sovereign choice is absurd sovereign choice.' His discussion focuses on why this form of life is 'shot through with sheer agony' and explains how the 'ineradicable indeterminacy' suggested by Sartre's existentialism manages to capture and express this sense of late modern existential angst.

All of the contributions in this collection directly engage with existentialist philosophy and collectively they offer a unique assessment of the impact that existentialist ideas continue to have on criminological scholarship. Some of the contributors have searched for affinities with existential ideas in the work of theorists who are not usually associated with existentialism. Others have critically engaged with existentialism, demonstrating the importance of understanding philosophers such as Heidegger, Sartre, Merleau-Ponty, and de Beauvoir and have drawn attention to neglected areas of their work. There are chapters that focus on recent criminological debates examining the nature of the criminological object, the existential dilemmas in penal decision-making and the existential predicaments involved in being a constable, while others have offered a more theoretical exploration in relation to a variety of existential themes such as freedom, choice, responsibility, transcendence and bad faith. All the contributors agree that existentialism has the potential to shed light on a range of substantive criminological areas, yet their assessment of a variety of philosophers and social theorists including Bergson, Levinas, Merleau-Ponty, Heidegger, Foucault, de Beauvoir, Goffman, Deleuze and Guattari, and, of course, Sartre, indicate key differences in the contributors' appreciation of existentialist ideas.

Our engagement with existentialism may surprise some readers. As we previously noted, in the 1960s and 1970s existentialism was attacked and discredited. The existentialist conception of human subjectivity was considered to be naïve, and humanist ideas, especially the humanism of Sartre's philosophy, were undermined. Social theorists such as Althusser and Foucault paraded on the new academic catwalks and existentialist concerns of freedom, choice and responsibility were increasingly seen to be passé. But thankfully not all academics follow intellectual fashions. Not everyone accepted the structuralist and post-structuralist accounts of human subjectivity. Despite the attacks against existentialism, a number of sociologists, anthropologists, philosophers, psychologists, psychotherapists and criminologists have continued to recognise the significance of existentialism for their own disciplines. The specific relevance of the existentialist orientation for criminologists was addressed, for example, in the aforementioned collection on Existentialist Criminology. The collection at hand can be seen to build directly on this work, further encouraging critical engagement with existentialist ideas.

The chapters in this collection engage with important aspects of existential thought, highlighting the value of ideas that until recently were considered to be out of date and insignificant for understanding the complex nature of our global-risk society. As this collection demonstrates, many of the central concerns of existentialism are remarkably similar to the concerns of social theorists who focus on de-traditionalisation and individualisation and on the increasing amount of choices and possibilities that people have to manage on an everyday basis. This literature refers to how people must now precariously negotiate a range of possible options concerning their increasingly flexible life course. They must invent their own 'do-it-vourself' or 'reflexive' biographies (see Beck 1998; Beck and Beck-Gernsheim 1996) rather than rely on traditional norms and expectations. People have to increasingly depend on themselves to discover their own path for a more rewarding life by reflexively constructing their own 'tightrope biographies' that produce high levels of anxiety and insecurity (also see Giddens 1991, 1994; Bauman 2000, 2001). There are clear similarities here with the concerns of existentialism. Indeed, many of the puzzling questions that Beck and Beck-Gernsheim argue are now 'spinning around in people's heads' (1996: 29) are existential questions. When considering debates concerning the increasing amount of demands that individuals have to manage and assess it is important not to lose sight of the fact that freedom, choice, responsibility and anxiety are all core existential themes that have been addressed by creative thinkers including Socrates, Kierkegaard, Nietzsche, Jaspers, Heidegger, Dostoyevsky, Ortega y Gasset, Kafka, Sartre, Camus, de Beauvoir and Yalom, among others. The connections, similarities, differences and continuities should be recognised and acknowledged.

It is clear that the collection here only addresses a small fraction of existential ideas that could be relevant for examining the existential predicaments and choices that underpin current debates and developments in the governance of crime and criminal justice. While we acknowledge this, we also feel that the essays in this volume make an important contribution to current debates and hope this collection will encourage readers to study the existential themes addressed in more detail. Those who decide to explore the vast literature on existentialism will soon learn that there is a great deal of diversity among those usually labelled as existentialists, and it is interesting to note that many persistently rejected the label. Even Sartre claimed not to know what the word existentialism meant, before applying the label to his own work and using it for his own purposes (Cooper 1999). Not only is there a great deal of diversity among those labelled as existentialists, such as Sartre, Camus, Heidegger,