**Justified balance**

In seeking arrest warrants against the leadership of Hamas as well as of Israel, the Office of the Prosecutor of the International Criminal Court (ICC) has taken a welcome first step towards accountability for the war crimes committed since October 7 last year. It was the day Hamas launched its deadly attacks, killing over 1,500 Israelis and taking at least 245 hostages. The Israeli military retaliation on Gaza has been brutal and relentless, and the death count has crossed 35,000 people, most of them women and children. The application for warrants, which will be decided by a Pre-Trial Chamber of ICC judges, will naturally have a greater impact on Israel than on the non-state group. Israel’s immediate concern is the moral equivalence the prosecutor has made in levelling charges of war crimes and crimes against humanity against both the national leadership of a democracy and an armed group that wants to destroy it. Save for Israel’s diehard supporters, including the U.S. and some other governments, few would disagree with the balance sought to be struck by ICC Prosecutor Karim A.A. Khan. It may not be flattering for Israeli Prime Minister Benjamin Netanyahu and Defence Minister Yoav Gallant to be named for war crimes and crimes against humanity alongside Yahya Sinwar, head of the Islamic Resistance Movement, or Hamas, Mohammed Diab Ibrahim Al-Masri alias Deif, commander-in-chief of the Al-Qassam Brigades, and Ismail Haniyeh, who heads the Hamas Political Bureau.

It would have been impossible, however, for the ICC prosecutor to ignore what the Israeli leadership has been accused of — starvation as a method of war and intentionally killing and directing attacks against civilians, among others. Hamas has been accused of extermination, murder, rape, torture and taking hostages. Israel has predictably questioned the application, repeating its position that it is engaged in legitimate self-defence. To many, the arrest warrants may appear futile. Those against whom warrants have been issued, but remain unexecuted, include Russian President Vladimir Putin and Sudan’s President Omar al-Bashir. However, regardless of the efficacy of such measures in preventing or punishing war crimes, the step does entail diplomatic costs, as member-countries of the ICC are obliged to arrest and hand over those against whom warrants are pending under the Rome Statute, the treaty that created the ICC mechanism. It may increase Israel’s isolation on the one hand, and harden the U.S.-Israeli position on the Palestinian question on the other. Israel, like the U.S., is not an ICC member-state; but as the Putin precedent shows, this may not be an impediment to the issuance of warrants against its leaders. On the flip side, Mr. Netanyahu will likely use this to shore up his position at home.