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# SC seek's Centre's response on custodial torture

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NEW DELHI: The Supreme Court sought the Centre's response on Monday on a PIL by ex-law minister Ashwani Kumar seeking a direction to the government to enact a stand-alone law to punish police for custodial torture.

In an impassioned argument before a bench of Chief Justice T S Thakur and Justice A M Khanwilkar, Kumar said he felt he "failed as a parliamentarian to ensure an effective and purposive legal regime to prevent torture in custody but he does not want to fail in his duty as a citizen to invoke the constitutional conscience for protecting the right to dignity of those who are routinely subjected to torture while in custody".

Kumar said his repeated attempts during the UPA government to get Prevention of Torture Bill, 2010 enacted had failed. The bill was passed in the Lok Sabha on May 6, 2010 and in the Rajya Sabha it was referred to a 13-member select committee, headed by Kumar. The committee recommended a comprehensive law to prevent custodial torture. But, efforts to get it passed in RS proved futile. The ex-minister said despite the SC judgement in D K Basu case in 1997 and subsequent guidelines, the issue of escalating custodial violence remained unaddressed, primarily because of lack of comprehensive legal regime resulting in gross violation of the right to life.

He said the UN General Assembly adopted the Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment in 1984. Non-signing of the convention has cost India dear as a Danish court refused to facilitate extradition of Kim Davy, a prime accused in Purulia arms drop case, on the ground that the accused might face torture. Citing the claims of

professor G N Saibaba that he was tortured in police custody despite being physically challenged, Kumar said unlike in cases of custodial deaths, police was under no legal obligation to report cases of custodial torture to the National Human Rights Commission (NHRC).

The NHRC has registered 2,044 cases of torture in police custody of which 574 were in 2008-09, 615 in 2009-10 and 855 in 2010-11, Kumar said. "The 2011 report indicates that unless the NHRC recommends prosecution of the guilty officials, torture is unlikely to end," Kumar said.