

From Sacred Duty to Legal Right: The Concept of Refuge in the Upakhyana of King Shibi and Modern Jurisprudence.

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Abstract

The Upakhyana of King Shibi, narrated in the *Mahabharata* (Vana Parva) and retold in the Buddhist *Sivi Jataka*, preserves one of the earliest South Asian reflections on the protection of the vulnerable. In the story, a frightened dove seeks refuge with King Shibi while a pursuing hawk demands its return as rightful prey. The king refuses to surrender the supplicant and instead offers his own flesh to satisfy the predator's claim. By doing so, he fulfils the sacred obligation of *sharanagata-raksha*, the protection of one who seeks refuge. Refuge here is not framed as an enforceable entitlement but as a moral duty grounded in *dharma*, righteous kingship, sacrifice, and cosmic balance.

This paper examines how this duty-based understanding compares with the rights-based framework of modern jurisprudence. Drawing on primary sources such as the *Mahabharata*, the *Sivi Jataka*, and classical dharma literature, along with modern legal instruments including the 1951 Refugee Convention and contemporary human rights discourse, the study traces the transformation of protection from ethical obligation to codified legal right. The ancient paradigm stresses compassion, honour, and the sovereign's personal responsibility, while modern law defines protection through universal rights, legal status, and institutional enforcement.

By situating the Shibi narrative within broader traditions of asylum and sanctuary, this study highlights both continuity and divergence. The ideal embodied by King Shibi offers a moral vocabulary that deepens present debates on refugee protection and humanitarian responsibility.

Keywords: IKS, Shibi, Upakhyana, Rajadharma, refuge and protection, and modern jurisprudence

Introduction

The Upakhyana of King Shibi, preserved in the *Mahabharata* and retold in the Buddhist *Sivi Jataka*, offers one of the earliest South Asian reflections on the ethical obligation to protect those who seek refuge. In the narrative, a terrified dove fleeing a pursuing hawk takes shelter in the lap of King Shibi. When the hawk asserts

its natural right to its prey, the king refuses to surrender the supplicant and instead offers his own flesh as a substitute. Through this act of self-sacrifice, Shibi upholds *sharanagata-raksha*, the duty to protect one who seeks sanctuary, even at personal cost. The episode frames refuge not as a legal entitlement but as a sacred obligation embedded within *dharma*, righteous kingship, and the maintenance of cosmic and social order. Protection of the vulnerable thus becomes a test of moral authority and a defining feature of ideal rulership. Classical Indian political thought reinforces this duty-centred framework. Kautilya's *Arthashastra* underscores the ruler's responsibility to ensure security, welfare, and justice, presenting governance as both an ethical and administrative obligation. Modern scholarship, particularly Patrick Olivelle's analysis of kingship, governance, and law in ancient India, demonstrates that political authority in early traditions rested upon the moral duty to protect subjects and uphold order. These perspectives reveal a system in which protection derived from ethical responsibility rather than enforceable individual rights.

Modern jurisprudence, however, reconceptualises refuge within a rights-based framework. Contemporary international legal instruments and scholarship, including Goodwin-Gill and McAdam's *The Refugee in International Law*, define asylum and protection through codified rights, legal recognition, and institutional enforcement. This shift reflects a transformation from sovereign moral duty to universal human rights norms. By placing the Shibi narrative in dialogue with classical political thought and modern refugee law, this study traces the evolution of refuge from sacred duty to legal right while highlighting enduring ethical principles that continue to inform humanitarian protection today.

Review of Literature

Scholarship on the concept of refuge in the Upakhyana of King Shibi draws from epic literature, Buddhist narrative traditions, classical political thought, and modern legal theory. The Shibi episode in the *Mahabharata* (Vana Parva) serves as the primary textual foundation for understanding the ethical obligation to protect a supplicant. Modern translations by J.A.B. van Buitenen and Bibek Debroy have made the narrative widely accessible, while interpretive studies emphasise its moral and political significance. Alf Hiltebeitel, in his work on epic traditions, discusses how such episodes present complex moral dilemmas and define the ethical responsibilities of a righteous ruler. Protection, in this context, is inseparable from *Rajadharma* and from the legitimacy of kingship itself.

A parallel ethical vision appears in the Buddhist *Sivi Jataka*, translated by E.B. Cowell. Here the king's willingness to sacrifice his own body reflects ideals of compassion, generosity, and moral perfection associated with the Bodhisattva path. Comparative readings of the epic and Jataka traditions reveal a shared emphasis on

safeguarding the vulnerable. The concept of *sharanagata-raksha*, the duty to protect one who seeks refuge, emerges as a central moral principle across these traditions.

Classical political thought provides further conceptual grounding. Kautilya's *Arthashastra*, especially in L.N. Rangarajan's translation, frames governance as an ethical and administrative responsibility, stressing security, welfare, and justice. Patrick Olivelle's *King, Governance, and Law in Ancient India* demonstrates that early legal and political authority rested upon moral duty and the protection of subjects.

Modern refugee scholarship presents a contrasting framework. Goodwin-Gill and McAdam's *The Refugee in International Law* traces the development of asylum into a system defined by legal status, rights, and institutional enforcement. This body of work highlights a significant shift from sacred obligation to codified protection.

Taken together, these sources show continuity in humanitarian concern yet reveal a transformation in its foundation, moving from duty-based ethics to rights-based jurisprudence.

Research Methodology

This study adopts a qualitative and interdisciplinary research methodology to examine the concept of refuge in the Upakhyaana of King Shibi and its relationship to modern jurisprudential understandings of asylum and protection. The research is primarily textual and analytical in nature, drawing upon epic literature, Buddhist narrative traditions, classical political thought, and contemporary legal scholarship. A close reading of the Shibi narrative in the *Mahabharata* (Vana Parva) forms the foundation of the study. English translations by J.A.B. van Buitenen and Bibek Debroy are used to ensure accessibility while preserving textual nuance. The *Sivi Jataka*, translated by E.B. Cowell, is examined comparatively to identify shared ethical principles and variations in emphasis, particularly concerning compassion and self-sacrifice.

The study employs hermeneutic analysis to interpret the ethical and political meanings embedded in these narratives. Concepts such as *Rajadharma* and *sharanagata-raksha* are analysed within the broader framework of dharma and moral kingship. To contextualise these ideas within early Indian political thought, Kautilya's *Arthashastra* is examined, focusing on passages related to governance, protection, and the welfare of subjects. Patrick Olivelle's work on kingship and law provides scholarly interpretation that helps situate duty-based protection within premodern legal and political traditions.

A comparative analytical approach is then used to contrast these duty-centred frameworks with modern rights-based legal systems. Contemporary refugee law scholarship, particularly Goodwin-Gill and McAdam's *The Refugee in International Law*, is consulted to understand how asylum has evolved into a codified legal right

supported by international conventions and institutional enforcement. This comparison allows the study to trace conceptual continuities and transformations across time.

Secondary sources, including modern scholarly analyses of epic ethics and political authority, support interpretive depth and historiographical grounding. The methodology does not rely on quantitative data; instead, it emphasises textual interpretation, conceptual analysis, and comparative evaluation. By integrating literary, philosophical, and legal perspectives, the research aims to illuminate how ancient ethical ideals of protection inform, contrast with, and enrich contemporary debates on refugee rights and humanitarian responsibility.

Findings and Discussion

The study finds that the Upakhyana of King Shibi presents refuge as a sacred obligation embedded in the ethical framework of *dharma* and righteous kingship. The narrative does not describe protection as a right claimed by the supplicant. Instead, it establishes an uncompromising duty borne by the ruler. When the dove seeks sanctuary and the hawk asserts its natural entitlement to prey, Shibi resolves the conflict through self-sacrifice. His act preserves cosmic balance, moral order, and sovereign honour at once. Kingship, therefore, is measured not by power but by the capacity to protect the vulnerable without hesitation.

The episode also reveals that sanctuary, once granted, becomes inviolable. The protection of the supplicant is absolute and cannot be negotiated away for convenience or political advantage. This principle of *sharanagata-raksha* transforms refuge into a sacred trust. It binds the ruler morally, socially, and cosmologically. Protection becomes an ethical imperative rather than a discretionary act of charity.

The *Sivi Jataka* strengthens this interpretation while shifting emphasis toward compassion and selfless giving. In the Buddhist retelling, the king's bodily sacrifice reflects the Bodhisattva ideal of generosity and moral perfection. Protection here extends beyond royal duty and enters the realm of universal ethics. The act of safeguarding the vulnerable becomes a path toward spiritual merit. Together, the epic and Jataka traditions articulate a shared moral vision in which refuge is sacred, protection is binding, and compassion is inseparable from authority.

Classical political thought provides further context. Kautilya's *Arthashastra* links political legitimacy to the ruler's responsibility for security, welfare, and justice. Although pragmatic in tone, it recognises protection as foundational to stable governance. The ruler who fails to protect fails to rule. Scholarly interpretations of early Indian law and kingship likewise emphasise that authority rested upon moral responsibility rather than mere coercive power.

Modern refugee jurisprudence presents a striking contrast. Contemporary international law defines refuge through legal status, codified rights, and institutional enforcement mechanisms. Protection is guaranteed not by personal virtue but by legal frameworks and international obligations. This shift reflects the transformation of governance from moral sovereignty to bureaucratic administration and rights-based accountability.

Yet continuity persists beneath this transformation. Both ancient ethics and modern law recognise vulnerability and the necessity of protection. The Shibi narrative contributes a moral vocabulary grounded in compassion, responsibility, and ethical leadership. Modern jurisprudence provides enforceable safeguards and universal standards. Effective protection, the study suggests, emerges from the convergence of these two traditions, where ethical commitment supports legal obligation and law ensures that humanitarian responsibility is not left to individual virtue alone.

Conclusion

The examination of the Upakhyana of King Shibi demonstrates that the idea of refuge in early Indian thought was rooted in an ethical universe shaped by *dharma*, moral duty, and the responsibilities of righteous kingship. Protection of the supplicant was not framed as an enforceable claim. It was an uncompromising obligation of the ruler. By offering his own flesh to save the dove, Shibi affirms that sovereignty derives its legitimacy from the defence of the vulnerable. Refuge thus emerges as a sacred trust that binds authority to moral responsibility. The comparative reading of the *Sivi Jataka* reinforces this principle while expanding its ethical scope. Protection is not merely a political duty but an expression of compassion and selfless giving. The Bodhisattva ideal elevates safeguarding the vulnerable into a universal moral virtue. Sanctuary becomes inviolable once granted. Compassion becomes inseparable from power.

Classical political thought further supports this duty-centred framework. Kautilya's *Arthashastra* links political stability to the ruler's responsibility for security and welfare. Governance is presented as both ethical responsibility and administrative necessity. Authority rests upon protection. Without it, legitimacy collapses. Modern jurisprudence redefines refuge within a rights-based framework grounded in international law and institutional enforcement. Protection is articulated through legal status, procedural safeguards, and universal human rights norms. This marks a shift from personal moral obligation to codified legal entitlement. The responsibility to protect is no longer dependent upon the virtue of a ruler. It is embedded within legal systems designed to ensure accountability.

Despite these differences, significant continuities remain. Both ancient and modern frameworks recognise vulnerability and the necessity of protection. The Shibi narrative offers a moral vocabulary rooted in

compassion, responsibility, and ethical leadership. Modern refugee law provides enforceable safeguards and universal standards that prevent protection from becoming discretionary.

The study concludes that the evolution from sacred duty to legal right does not represent a rupture but a transformation in emphasis. Ethical commitment and legal obligation must operate together. A humane system of refuge requires both the moral impulse to protect and the institutional structures that guarantee protection in practice.

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