

# INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

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Volume 7 | Issue 5

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2024

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# Analysis of NCLT's Role in Resolving Corporate Disputes

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## ABSTRACT

*The National Company Law Tribunal (NCLT) plays a pivotal role in settling corporate disputes. It helps in enhancing efficiency and promoting good corporate governance among companies in India. This study explores the key functions and significance of these tribunals within the Indian business landscape. It examines how the NCLT helps resolve corporate disputes, including mergers, insolvencies, and issues of minority shareholder oppression. Additionally, the NCLT aims to facilitate quicker dispute resolution and shorten the winding-up process by streamlining procedures. This study investigates the important functions and importance of these tribunals within the Indian business environment in relation to solving disputes.*

**Keywords:** NCLT, disputes, corporate governance.

## I. INTRODUCTION

In 1999, the Union of India formed the "Eradi Committee" to oversee and to give amendments to the existing laws governing company insolvency and winding-up. Its main objective was to expand these laws in line according to developments happening globally in regulations of business. The committee, led by retired Supreme Court Justice V. Balakrishna Eradi, included other experts in the field. The Eradi Committee proposed several changes to the Companies Act of 1956, specifically through the introduction of "Part IB" and "Part IC," which facilitated the creation of the "National Company Law Tribunal (NCLT)." This new body was designed to consolidate the powers of the Company Law Board (CLB), the Appellate Authority for Industrial and Financial Reconstruction (AAIFR), and the Board for Industrial and Financial Reconstruction (BIFR), as well as to assume the jurisdiction and authority of the High Courts in matters relating to company winding-up. The amendments were developed after studying corporate insolvency laws in countries with advanced industrial regulations.

The National Company Law Tribunal (NCLT) is a quasi-judicial body established in 2013 under the Companies Act to adjudicate cases involving Indian companies. It comprises a President and two categories of members: technical and judicial. To qualify as President, candidates must

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be either a high court judge, a district judge with a minimum of five years' experience, or an advocate with at least ten years of practice. Technical members must have a minimum of fifteen years of experience in the Indian Legal Service or Indian Corporate Law Service, currently hold a position such as secretary or assistant secretary to the Government of India, demonstrate a strong aptitude, and have at least fifteen years of experience as a chartered accountant, cost accountant, or company secretary. The National Company Law Tribunal (NCLT) plays a pivotal role in improving corporate governance standards in India. Its principles contribute to promoting good corporate governance among Indian companies. It examines how the NCLT helps resolve corporate disputes, including mergers, insolvencies, and issues of minority shareholder oppression. The Tribunal will also address matters related to mergers and acquisitions, as well as disputes arising from the conversion of private companies to public entities.

**(A) Review of literature:**

According to the study of “**Hiteshkumar Thakkar**” **May 2023** , The National Company Law Tribunal (NCLT) is crucial element of the corporate law system. This paper explores the economic functioning of the NCLT in Ahmedabad to better understand its effectiveness. The study utilizes qualitative methods, including interviews with relevant stakeholders and direct observations of court proceedings, to evaluate the NCLT's efficiency accurately.<sup>2</sup>

According to the study of “**Subham paliwal**” **Febraury 2023** , This research looks into the significant events that contributed to the establishment of the National Company Law Tribunal (NCLT) while also highlighting its limitations. It thoroughly examines the Madras Bar Association vs. Union of India case, which played a vital role in the NCLT's creation, and discusses the various issues and debates that arose during this case. Furthermore, the paper explores the NCLT's function in dispute resolution, particularly regarding its authority in company and insolvency matters. It outlines the NCLT's decision-making powers and compares its role under the Companies Act of 1956 and the Companies Act of 2013. Lastly, the study underscores the crucial role of mediation in resolving corporate disputes.

According to the study of “**sarang kaushik**” **2020**, This paper looks into how the National Company Law Tribunal (NCLT) and the National Company Law Appellate Tribunal (NCLAT) were set up and how they operate as quasi-judicial bodies for resolving corporate issues. It reviews existing studies on their effectiveness, points out common challenges, and proposes

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<sup>2</sup> Efficacy of Adjudication Process of Corporate Insolvency Resolution Process (CIRP): Law and Economics of National Company Law Tribunal (NCLT) | Request PDF (researchgate.net)

improvements. Additionally, the paper discusses the constitutional aspects of the NCLT, identifies areas where current research is lacking, and offers suggestions to address these gaps.

According to the study of **“Priya gupta”, March 2019** The launch of One Person Companies (OPCs) through the Companies Act, 2013 has greatly changed the business scene in India, supporting the growth of small businesses and entrepreneurs. As more OPCs start up, we’re likely to see an uptick in disputes, which could put added pressure on the legal system and negatively affect these small ventures. This article explores how mediation can help resolve issues related to OPCs and offers ideas for updating the existing mediation laws that govern companies.

According to the study of **“Dr. Chandan Karki” June 2023**, The Prime Minister of India recognized the National Company Law Tribunal's (NCLT) significant contributions to strengthening corporate governance in India during the India Today Conclave 2023. This acknowledgment highlights the NCLT's crucial role in resolving corporate disputes, ensuring adherence to company laws, and promoting a healthy business environment. NCLT has demonstrated significant efficiency, with 93% in merger cases, 80% in oppression and mismanagement cases, and 86% in insolvency disputes, involving settlements exceeding ₹10,49,264 crore. Given the scale of India's corporate sector, there is a need to further strengthen NCLT's resources and expand its jurisdiction, while protecting its independence and operational framework.

**(B) Objectives of the study:**

1. To study about NCLT’s role in solving corporate disputes.
2. To assess the performance of the NCLT in disposing of the cases.

**(C) Research Methodology:**

The research methodology for this study involves a comprehensive literature review of online sources, including as for the research methodology of the current work, the first step in the research process includes the analysis of the literature review of the online materials. This study uses the secondary data available from the NCLT website <https://nclt.gov.in/> and other Government of India websites.

**(D) Significance of the study:**

- Analyzing the NCLT’S role helps in understanding that how efficiently the tribunal handles corporate disputes compared to traditional courts. This includes assessing the speed of case resolution, the effectiveness of procedures, and overall judicial efficiency.

- The study shows on how NCLT's decisions and processes affect the corporate governance practices. This includes its role in carrying out the compliance with corporate laws, protecting shareholder rights and ensuring ethical business practices .
- NCLT plays a crucial role under the Insolvency and Bankruptcy Code (IBC). Analyzing its role helps in evaluating the effectiveness of insolvency procedures and the resolution of distressed companies.
- This study helps in knowing the gaps, challenges, and inefficiencies which are present in the current corporate dispute resolution framework. This information is important for policymakers and regulators when considering reforms or amendments to improve the system reforms aimed at increasing the effectiveness of corporate dispute resolution.
- By analyzing its role, one can measure how effectively the tribunal supports the business operations and manages corporate conflicts. A well-functioning NCLT encourage investor confidence by making sure that corporate disputes are resolved fairly and transparently, which is very crucial for maintaining a healthy investment climate.

## **II. MERGERS AND ACQUISITIONS**

Mergers and acquisitions are used as instruments of significant growth. In order to obtain entry to the market through an established brand, gain market share, decrease competition, lower tax obligations, acquire expertise, or offset cumulative losses of one company against the profits of another, companies may engage in mergers and acquisitions.

### **(A) Role of NCLT in mergers and acquisitions:**

#### **a. Approval of Schemes of Arrangement and Compromise:**

The National Company Law Tribunal (NCLT) is responsible for approving schemes of arrangement or compromise, including mergers, demergers, and other corporate restructuring activities. Companies planning to merge or acquire another company must submit a detailed a report to NCLT, which includes the transactions , reports of appraisal, and other documents. The tribunal assesses the plan that is fair to all stake holders.

#### **b. Scrutiny of Compliance:**

NCLT ensures that merger or acquisition complies the provisions of Companies Act,2013 as well as other applicable laws .It includes the scrutinizing the approval of shareholders , creditors and other regulatory bodies. It verifies the procedural requirements such as filing of petitions , conducting meetings and other approvals

**c. Hearing Objections and Concerns:**

The tribunal conducts the proceedings to hear the objections and concerns creating impact on various stakeholders by the merger and acquisition. It solves the disputes that arise during the approval process, ensuring to protect all the stakeholders' interest and that the transaction is held in a transparent manner.

**d. Adjudication of Disputes:**

NCLT's main role is to resolve problems that arise during the process of merger or acquisition including the issues relating to fairness, valuation or compliance with legal requirements. It has the authority to change any scheme to address any issues during the review process.

**e. Post-Approval Supervision:**

Once the plan of merger and acquisition scheme is approved, NCLT starts to monitor the implementation of the scheme to ensure proper execution. It also oversees the transfer of assets, liabilities, and compliance with the terms of the sanctioned scheme. It may ask the companies to report the progress of the implementation.

**f. Impact on Corporate Governance:**

Tribunal ensures that it prevents the potential abuse of the merger and acquisition process such as unethical trading practices. NCLT helps maintain transparency and accountability in corporate transactions as to adhere to the corporate governance standards.

**g. Facilitating Economic Growth:**

NCLT aims to provide a structured legal framework for mergers and acquisitions. NCLT facilitates corporate restructuring and consolidation, which ultimately results in economic growth and corporate efficiencies.

**III. OPPRESSION AND MISMANAGEMENT**

Oppression and mismanagement is a situation where the corporate matters are conducted in a manner of unethical standards which is unfair, prejudicial, and adversely affects the interests of minority shareholders. NCLT has the power to investigate given under sec 242(4) as such "any interim order which it thinks fit for regulating the conduct of the company's affairs upon such terms and conditions as appear to it to be just and equitable". In the case *Elder vs Elder & Watson Limited*<sup>3</sup> it was held that oppression is defined where the affairs of a company are dealt in an unfair manner and to the prejudice of some of its members.

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<sup>3</sup> AIR 1965 SC 1535

The Supreme Court in the landmark ruling of *Shanti Prasad Jain vs Kalinga Tubes Limited*<sup>4</sup> had held that in the case of 'oppression', where the minority members are suppressed by the majority shareholders. The conduct by the majority shareholders must be burdensome, harsh and wrongful. Mere rift between them would not be sufficient unless the lack of confidence springs from oppression of a minority by a majority in management of the affairs of the company.

Under section 242 CA 2013, gives the relief from oppression and mismanagement in which addresses the Tribunal's authority to issue orders in relation to oppression and mismanagement. It involves a significant shift in the company's management or control, which was neither started by nor aligned with the interests of the company's creditors, debenture holders or any group of shareholders. This could include changes in the management team, ownership structure or board of directors of the company's shares. If a company does not have share capital, any substantial alterations to its membership or other factors that could lead to the operation of the company being managed in a manner harmful to its interests, any other specific group of members or the interests of its members, would be considered as mismanagement

It has wide authority to sort out such matters and issue a range of orders, including suspending the entire board, removing auditors, granting immunities to board nominees, preventing judicial forums from taking action against government nominees and facilitating the introduction of a strategic partner through preferential allotment without the consent of the shareholder. According to Section 242, the Tribunal may issue any order required to resolve the issues raised and bring an end to the complaints.

**(A) Role of NCLT in oppression and mismanagement:**

**a. Initiation of Insolvency Proceedings:**

NCLT adjudicates complaints from shareholders or other stakeholders who declare that they are suffering due to oppressive or mismanagement practices by the company's management or majority shareholders. These complaints can involve unfair treatment, mismanagement of the company's affairs or abuse of power. NCLT has the authority to examine the merits of these complaints and decide on relevant remedies. Its decisions are based on the provisions of the Companies Act, 2013, and other relevant laws.

**b. Interim Resolution Professional (IRP) Appointment:**

Furthermore, in very serious cases, the NCLT can suspend the board of directors as a whole and appoint an interim board or administrator to manage the company in the interim. In such cases,

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<sup>4</sup> (1952) Scottish Cases 49

the NCLT can even dismiss auditors who are implicated in mismanagement, or simply have not noticed mismanagement. The Tribunal can appoint new directors or reconstitute the board to improve management and oversight, and can issue restraining orders preventing the company from taking acts or making decisions which are otherwise unjust or damaging.

**c. Approving a Resolution Plan:**

When a resolution plan is devised by the resolution professional, the NCLT will review and approve the resolution plan ensuring that it is legally compliant and likely to be effective in restoring the company. At times, the Tribunal will explore and encourage conciliatory settlements between dispute parties, seeking an arrangement both parties can agree upon; a settlement both parties feel is a win-win, which avoids litigation or creates better opportunities for amicable settlements in the future.

**d. Liquidation Process:**

If a resolution plan is rejected or saving the business is not a viable option, the NCLT will order the company to be liquidated. Liquidation means the asset liquidated and the proceeds divided among creditors. The NCLT's decisions help clarify the rights and obligations of companies, directors, and shareholders under the Companies Act, and provide important insight into stakeholder expectations and legal obligations

**e. Corporate Debt Restructuring:**

Further, the NCLT may be involved in corporate debt restructuring and negotiations of a company and its creditors beyond insolvency and liquidation process.

**f. Ensuring Compliance:**

To protect the interests of all parties, the NCLT will ensure that the insolvency process follow the IBC and make rulings and orders that best advocate for all stakeholders.

#### **IV. INSOLVENCY AND BANKRUPTCY CASES**

The National Company Law Tribunal (NCLT) plays a pivotal role in bankruptcy and insolvency proceedings in India. The NCLT was set up under the Companies Act, 2013, and the Insolvency and Bankruptcy Code, 2016, to handle cases related to corporate insolvency, resolution, and winding-up of companies.

The Insolvency and Bankruptcy Code (IBC) 2016 designates various adjudicating authorities to oversee insolvency proceedings. The National Company Law Tribunal (NCLT) and National Company Law Appellate Tribunal (NCLAT) handle corporate debtors, while Debt Recovery



Tribunals and Appellate Tribunals address individuals and partnership firms. Thus, NCLT and NCLAT play a crucial role in the Corporate Insolvency Resolution Process (CIRP). However, effective adjudication requires these authorities to possess inherent contempt powers, which are granted by the Companies Act 2013 but not explicitly by the IBC. This creates a legal conundrum due to the lack of harmonization between the two laws, resulting in conflicting rulings on whether contempt provisions under the Companies Act 2013 apply to IBC proceedings.

**(A) Role of NCLT in insolvency proceedings:**

**a. Initiation of Insolvency Proceedings :**

NCLT has the authority to accept or dismiss petitions for initiating insolvency proceedings. The NCLT receives applications from corporate debtors, creditors, or operational creditors, and reviews them to determine if they satisfy the requirements for initiating insolvency proceedings. If an application is approved, the NCLT initiates the Corporate Insolvency Resolution Process (CIRP), a time-bound process aimed at resolving the company's insolvency.

**b. Appointment and Oversight of Professionals:**

The NCLT evaluates applications from corporate debtors, creditors, or operational creditors to determine their eligibility for insolvency proceedings. Upon approval, the NCLT triggers the Corporate Insolvency Resolution Process (CIRP), a structured and time-sensitive framework designed to address the company's insolvency.

**c. Supervision and Management:**

The NCLT exercises oversight throughout the insolvency resolution process, ensuring adherence to the IBC and relevant laws. The Tribunal guarantees transparency, fairness, and timeliness in the process. It reviews and approves resolution plans submitted by the Resolution Professional and endorsed by the Committee of Creditors (CoC), verifying their legal compliance and alignment with the creditors' best interests.

**d. Handling Disputes and Claims:**

The NCLT addresses and resolves disputes arising during the insolvency process, including stakeholder conflicts, claim challenges, and resolution plan issues. The Tribunal also ensures the fair and transparent verification of creditor claims, in compliance with the IBC, to prevent any potential disputes or issues.

**e. Resolution or Liquidation:**

The NCLT's sanction is required to implement an approved resolution plan, allowing the

company to continue operations under new terms. If the resolution process fails or no feasible plan is available, the NCLT can order liquidation, involving the appointment of a liquidator to sell the company's assets and distribute the proceeds to creditors.

## V. ANALYSIS OF DATA ABOUT CASES FILED AND PENDING AND DISPOSED

### (A) Under insolvency and bankruptcy cases:

#### Section 7: Initiation by Financial Creditors:

A financial creditor looking to start CIRP against a corporate debtor may submit an application to the Adjudicating Authority (NCLT). The application needs to be submitted along with the required paperwork and documentation.

#### Section 9: Initiation by Operational Creditors:

An operational creditor can submit an application to the Adjudicating Authority (NCLT) to initiate the Corporate Insolvency Resolution Process (CIRP) against a corporate debtor. This application must be accompanied by an invoice or demand notice along with evidence of the default.

#### Section 10: Initiation by Corporate Debtors:

For the initiation of CIRP, A corporate applicant (the corporate debtor itself) can file an application with the Adjudicating Authority (NCLT). The application must be authorized by the board of directors or partnership, as applicable.

**Table 1:**

Data about the cases filed under Section 7, 9 & 10 of IBC					
FROM 01.11.2017 TO 31.07.2024					
Section of IBC, 2016	No. of Cases Numbered	No. of Cases Pending(pre admission)	No. of Cases Pending (post admission)	No. of Cases Disposed	% of Disposal
Sec 7	11,372	1,001	2,314	8,463	74.41%
Sec 9	23,335	1,403	2,363	20,794	89.11%
Sec10	794	175	308	448	56.42%

TOTAL	35,501	2,579	4,985	29,705	83.67%
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SOURCE: <https://nclt.gov.in/section-949559-others>

The above table depicts the data at which of the cases filed, pending and disposed under section 7, 9 and 10 of IBC from 01.11.2017 TO 31.07.2024. Under sec7 of IBC no. of cases filed are 11,372 and the no. of cases disposed are 8,463 in which % of Disposal amounts to approximately 74.50%. Under sec9 of IBC no. of cases filed are 23,335 and the no. of cases disposed 20,794 in which % of Disposal amounts to approximately 89% which shows the efficiency of NCLT in solving disputes. Under sec 10 of IBC no. of cases filed are 794 and the no. of cases disposed are 448 in which % of Disposal amounts to approximately 56.50%. In totality the total no. of cases filed are 35,501 and the total no. of cases disposed are 29,705 in which % of Disposal amounts to approximately 84%.

#### Section 94: Application for Insolvency Resolution by a Financial Creditor:

If an individual or a partnership firm have committed a default on a debt or are otherwise unable to meet their liabilities, Section 94 of the IBC allows to apply for insolvency resolution. This section is relevant specifically for individuals and partnership firms who wish to initiate insolvency proceedings under the IBC.

#### Section 95: Moratorium and Protection:

Section 95 addresses the moratorium and protections afforded to the debtor once an application for insolvency resolution is admitted. This section ensures that the debtor is shielded from immediate enforcement actions by creditors, allowing them to concentrate on addressing their insolvency issues.

TABLE 2:

Data about the cases filed under Section 94 & 95 of IBC				
(From 01.12.2019 to 31.07.2024)				
Section of IBC, 2016	No. of Cases Numbered	No. of Cases Pending	No. of Cases Disposed	% of Disposal
SECTION 94 & 95	5,586	3,735	1,831	32.77%

SOURCE : <https://nclt.gov.in/section-949559-others>

The above table depicts the data at which of the cases filed, pending and disposed under Section 94 & 95 From 01.12.2019 to 31.07.2024 . Under sec 94 &95 of IBC no. of cases filed are 5,586 and the no. of cases disposed are 1,831 in which % of Disposal amounts to approximately 33%.

**(B) Under Companies Act:**

Section 230: Power to Compromise or Make Arrangements:

Section 230 empowers the National Company Law Tribunal (NCLT) to give orders . This section provides the provision for companies looking to restructure their debts or make arrangements with creditors.This section addresses the NCLT's authority to implement the compromise or arrangement authorized by Section 230. It guarantees that the conditions of the agreement or compromise are followed.

Section 231: Power of Tribunal to Order Company to be Wound Up

This section provides the tribunal with the authority to order the winding up of a company under certain circumstances. It includes provisions for cases where the tribunal believes it is just and equitable to wind up the company, such as in instances of fraud, mismanagement, or inability to continue business.

Section 232: Merger and Demerger of Companies:

The procedure for company mergers and demergers is governed by Section 232. The legal framework for corporate restructuring is provided in this section, enabling companies to merge or demerge.

**TABLE 3:**

Data about the cases filed under Section 230-232 of Companies Act, 2013 (Merger Acquisitions)				
(From 01.06.2016 to 31.07.2024)				
Section of CA, 2013	No. of Cases Numbered	No. of Cases Numbered	No. of Cases Disposed	% of Disposal
Sec 230-232	18,069	1,010	17,059	94.41%

SOURCE: <https://nclt.gov.in/section-949559-others>

The above table depicts the data at which of the cases filed, pending and disposed under Section 230-232 of Companies Act, 2013 from 01.06.2016 to 31.07.2024 . Under section 230-232of CA, 2013 no. of cases filed are 18,069 and the no. of cases disposed are 17,059 in which % of

Disposal amounts to approximately 94.50% .

**TABLE 4:**

Data about the cases filed under various provisions of Companies Act, 2013				
(From 01.06.2016 to 31.07.2024)				
Section of CA, 2013	No. of Cases Numbered	No. of Cases Numbered	No. of Cases Disposed	% of Disposal
Sec 241/242, 59, 271-272, 252, 45Q, 397/398 of CA, 1956 etc.	40,286	7,150	33,136	82.25%

The above table depicts the data at which of the cases filed, pending and disposed under various provisions of Companies Act, 2013 from 01.06.2016 to 31.07.2024 . No. of cases filed are 40,286 and the no. of cases disposed are 33,136 in which % of Disposal amounts to approximately 82.25%.

Source :Table 1 – 4 (<https://nclt.gov.in/section-949559-others>)

## VI. RESEARCH FINDINGS

The National Company Law Tribunal (NCLT) has a tremendous role in solving corporate disputes with notable remarks. This study focuses on how efficiently NCLT is resolving the disputes among various companies in different types of disputes. According to my study, NCLT's performance in disposing of the cases is quite good. Despite enormous efforts to enhance their effectiveness and efficiency, there is a substantial backlog of cases. According to the data in Table 2, the % of Disposal rate is relatively low shows the hindrance of the National Company Law Tribunal, which might be because of so many reasons, such as the high volume of cases filed and the lack of skilled and trained personnel resulting in delays in decision-making and the administration of justice. To overcome all these problems, appropriate reforms and streamline procedures are to be furnished to enhance its role to a greater extent.

## VII. CONCLUSION

The National Company Law Tribunal (NCLT) establishment was meant to provide a more

specialized and effective forum for dealing with matters pertaining to corporate governance, insolvency, and company law. The NCLT is authorized to adjudicate and resolve cases concerning a range of issues, including mergers and acquisitions, oppression and mismanagement, company liquidation, and other corporate-related matters. NCLT provides a platform for the resolution for all types of corporate disputes . The NCLT is also empowered to appoint insolvency professionals in insolvency and bankruptcy cases, facilitating the efficient and effective resolution of these matters. The NCLT has greatly improved the settlement of business disputes in India by offering specialized, effective and easily accessible forum for resolving complicated business matters .There are so many significant changes that is made to improve its efficiency but still improvement is needed. One of the major issue that NCLT is going through is backlog of cases. There are a lot of cases pending before the NCLT, which may cause delays in the settlement of disputes. The NCLT need to take steps to address this backlog and ensure that cases are resolved in a timely manner. This can involve adding more judges and technical members to the panel, utilizing technology more frequently to settle cases, and streamlining processes to increase their effectiveness.

NCLT is very likely going to keep changing as it adjusts to shifting legal and economic environments. Increased specialization, process enhancements, and a focus on technology could help to strengthen its role in settling business conflicts. For Maintaining high standards of adjudication, it will also require continuous training and assistance for NCLT members. Its importance for corporate governance and insolvency is especially noteworthy, but continuous efforts are required to address its issues and guarantee its continued efficacy in the future. In India, as companies started to grow at larger levels, NCLT in the future would deep-rooted its actions and engraved its path.

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