

Tracing the Role of NFTs* in Re-Visioning Ownership and Copyright: An Introspection into the Case of Folk Art

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Abstract

Many indigenous communities have a variety of folk-art forms that are part and parcel of their identity and daily lives. These art forms have been responsible for the propagation of their histories that have usually not been documented otherwise due to various factors. However, the covid pandemic has forced these practitioners to seek alternate methods to showcase these art forms. In this regard, many performers have taken on the world of the Internet with their performances.

Non-fungible tokens (NFTs) are digital assets that are representative of physical or digital creative works. These tokens are unique and cannot be interchanged with another token and contain the digital information of the artwork. One of the critical advantages that NFTs offer is that the artists can include their signatures in digital tokens and provides numerous other novel avenues to ensure ownership and royalty. Furthermore, in 2021, the sales in the NFT market were valued at US \$41 billion (Chainalysis, 2022), almost equal to the global sales of art and antiques in the year 2020, which was worth US \$50.1 billion (Art Basel, 2021). This clearly shows the traction that NFTs are gaining in today's marketplace.

By leveraging NFTs, folk artists can directly offer their artwork to their audience while also keeping royalty. This record is publicly available and can be accessed anywhere and at any time, thereby ensuring that the ownership rights of the community can remain in the public domain. The minting of NFTs creates a permanent public record of the origin of the work of art and thereby guarantees that the ownership rights stay within the community. This would ensure that the community can get the chance to monetise their intellectual property while also keeping hold of their ownership rights.

In this light, this paper aims to understand the new avenues that NFTs can provide the community concerning their indigenous intellectual property while also providing streams of sustainable revenue.

Keywords: NFTs, folk art, ownership, copyright, pandemic

Introduction

The covid-19 pandemic has been an inflexion point in the lives of people from all walks of life. Among those whom the disease and the lockdown restrictions have significantly impacted, the group of folk performers cannot be ignored. These performers used to travel to different places and perform live in front of their niche audiences, usually in villages. However, with the imposition of lockdowns concerning the covid pandemic, these performers could no longer travel to other places and perform in front of their audiences (Jain, 2020).

Not only did this impact their livelihoods, but it also significantly impacted the propagation of their culture. This is because folklore is perpetuated primarily through the oral tradition, meaning they have not generally been textualised. This idea is further compounded by the entry of Geroge Herzog in *Funk & Wagnalls Standard Dictionary of Folklore, Mythology and Legend*, where he says that folklore “embraces those literary and intellectual phases of culture which are perpetuated primarily by oral tradition: myths, tales, folk song, and other forms of oral traditional literature; folk speech and dialect as the medium of these materials; folk music and folk dancing because of their intimate relation to folk song; also customs, beliefs, and folk science.” (1972, p. 1032). This, therefore, implies that without these performances, not only would their livelihoods be affected, their culture and histories, which have been side-lined by the dominant hegemony, would be alienated further.

However, many folk artists have now found a way to combat this impediment by taking on the digital wave. They have turned to the Internet to save not just their livelihoods but their culture as well. Baul singers from Bengal, Chhau dancers from Odisha, and Qawwali

performers from Malwa are some of the folk performers from India who have been among those who have taken on this digital transformation. (Jain, 2020).

In this light, it can be a fruitful engagement to look at how other technological advancements can be leveraged by these communities to not just further their livelihoods but also their communities as well. The researcher has identified one such advancement as non-fungible tokens, or NFTs. An NFT is an online record that connects a digital artwork to its owner. This record is permanent and can be verified as well. A majority of the NFTs are listed on platforms monitored by Ethereum. These platforms utilise blockchain technology and are decentralised cryptocurrency platforms.

This paper envisions taking a closer look at the NFT landscape and the opportunities and challenges it offers to the folk communities and performers in India, especially considering how they have been affected by the covid-19 pandemic. In this regard, the paper looks into the ideas of ownership and copyright when it comes to folk art and how these ideas play out in the world of NFTs. The researcher leverages a qualitative analysis methodology in this introspection into the case of NFTs and folk arts.

NFTs and the World of Art

Non-fungible tokens, or NFTs, are an online record that connects a digital artwork to its owner. This record is permanent and can be verified as well. A majority of the NFTs are listed on platforms monitored by Ethereum. After an NFT is minted, the digital art becomes an NFT and can be sold and bought on the NFT marketplace. Whenever a transaction occurs, the details are stored in a ledger by leveraging a Proof-of-Work mechanism. This ensures that the digital assets are transferred quickly and hassle-free while enabling the transactions to be digitally tracked throughout the whole process from anywhere and at any time. This empowers artists to create digital artworks, whose uniqueness can be validated, and share it among their audience. (Vasan et al., 2022) (Rehman et al., 2021).

The blockchain ledger exists in many interconnected copies, making it distributed. This creates a decentralisation of power as there is no more a need to trust a single entity or organisation to safeguard the ownership details and other such data. This has significantly altered the power dynamics associated with such an agency. (Haber & Stornetta, 1991) (Nakamoto, 2009). This technology involves trust in the algorithm and removes the requirement of a central administrator by internally linking the ledgers from one block of transactions to the next and then distributing multiple connected copies. (Whitaker, 2019).

When artists make their sales through NFTs, they can choose to keep royalty. This ensures that not only do they get profits while selling their artworks, but they can also get a stream of revenue each their artwork gets transferred to a new owner. The everlasting and transparent nature of the ledger ensures that the record of royalty exists within the ledger forever and that the artist is ensured of the royalty hassle-free. (Rehman et al., 2021).

Another critical capability of NFTs is that it links unique information to a singular account on the blockchain. This ensures that authenticity and legitimacy of ownership with regard to a digital artwork can be enforced and thereby offers the means for settling battles with respect to ownership. This provides security to artists who are oftentimes found battling for the rights of ownership. (Rehman et al., 2021).

These are some of the possibilities that the world of NFTs has opened to the artists of today. It could be argued that NFTs have enabled a scope for greater democratisation of the world of art, especially through the decentralisation of the power dynamics that have been enabled. However, it is to be noted that the NFT landscape brings forth a number of shortcomings as well.

The NFT wave has taken the art world by storm. This can be easily understood by looking at the figures of the NFT marketplace and the traditional art market, where people buy and sell physical artworks. In 2021, the sales in the NFT market were valued at around US

\$41 billion. (Chainalysis, 2022). An estimate from the report showed that conventional art and antiques sales reached a value of US \$50 billion in 2020. (Art Basel, 2021). This clearly shows that the NFT marketplace has gained much traction and is slowly catching up with the conventional art market. Thereby, it can be opined that NFTs will have a significant market share in the world of artworks.

Folklore and Folk Communities

Folklore plays a significant role in the culture and histories of tribal people. Even today, many folk communities exist in the oral tradition, and their culture and history get propagated orally, especially through their art forms. Conversely, these art forms also serve as the characteristic elements of these societies. They are usually ritualised and may be performed in relation to some other elements or customs. Additionally, they may also involve the usage of traditional instruments of the community. For instance, the traditional dance forms of the tribal groups in Attappady, the *Mangalam Kali*¹ of the *Malavar*² and *Malavettuvar*³ tribal groups, the *koothu*⁴ of the *Ooral*⁵, *Mannan*⁶, and *Muthuvan*⁷ tribal groups, can be considered to be some examples of these art forms that are characteristics elements of the community. (Mini, 2015) Therefore, it can also be said that the sense of identity forms the crux of the origin of folk and folklore is the expression of this identity. (Bharatan, 2015).

Furthermore, it can be said that these folk texts are a treasure trove of the knowledge capital of folk communities, and they may or may not be bound by the temporal and spatial constraints. The content of these tales varies across a range of ideas from personal to public, individual to community-related, and life to myth, among others. Therefore, it can be condensed to mean they reflect the life and the livelihood of the communities in which they exist. (Dash, 2019, pp.13-14).

For instance, if we were to take the case of dance forms of tribal communities, it could be said that it acts as a repository of cultural knowledge and social practice to not just the

performers and the community members but also outsiders. The dance forms communicate the knowledge capital that may be inclusive of the current state of affairs, the conduct of social affairs, and also the human experience. It is also a characteristic element of a tribal society since dance can be an embrace towards and fight against tradition and individualism. (Krystal, 2011, pp. 4-7)

Questioning Copyright

Copyright is a branch of intellectual property law that protects original works of authorship such as literary, artistic, and so on. Copyright claims to give their authors a natural right over the product of their intellectual labour, thereby giving them exclusive rights over their work. This includes the rights to authorise reproduction, adaptation, performance, distribution, and so on. (Drahos, 2016) (Boyle, 1997) (Hughes, 1988). However, what it fails to take into context is that, more often than not, most creators do not usually own the copyrights to their works of art. This is because these rights are usually vested by the recording company, the publisher, the person who has commissioned the work of art, or a similar person or organisation. (Liang, 2007).

In this light, we can argue that the existing frameworks in which copyright exists do not offer advantages to the authors. However, it usually lies in the vested interests of other intermediaries. One of the major reasons in this regard may be the substantial capital investments that usually have to be borne by the authors of the work of art so that they can share it with their expected target audience. This is due to the fact that the authors of the work of art need to find avenues such as exhibitions, performing spaces, and so on, usually multiple times, and then they might even need to spend for marketing from their own pockets. These substantial capital investments are often not affordable for authors, such as folk artists, who may have limited sources of economic capital. This leads us to the need for either reinventing the way copyright has been framed or the need to come up with alternate methods to overcome these challenges.

By leveraging NFTs, authors can work within limited budgets to create and publish their artworks. They need to pay only nominal fees on the NFT marketplaces to mint and sell their artworks compared to the enormous capital investments they would have to incur otherwise. Moreover, once an NFT is minted, it gets uploaded to the marketplace. It stays there until and unless the author removes them, thereby ensuring the removal of redundant costs that happen each time they exhibit their artwork physically. This gives authors greater freedom when creating and publishing artworks with a limited budget because they need not depend on others for substantial capital investments. The NFT marketplace also helps them showcase their creative output in front of a larger audience while operating at a reduced budget.

NFTs and the Opportunities for Folk Artists

Folk artists, although forced, have begun to embark on the digital wave with the advent of the pandemic. Several folk art performers, such as the Baul singers from Bengal, Chhau dancers from Odisha, Yakshagana performers of Karnataka, and Qawwali performers from Malwa, are some examples. (Jain, 2020).

Now that folk artists have begun to turn the world of the Internet, it is imperative to understand and realise the opportunities such a space can offer them. NFTs are one such technological advancement that can offer opportunities to the tribal people to further their culture and traditions while also providing them with a steady stream of revenue. One of the reasons that can be considered while helping these communities move into the NFT marketplace, which can be considered to be still gaining traction in India, is that early adopters of the technology have been found to gain greater earnings when compared to their counterparts who have joined later. (Vasan et al., 2022). In this light, if the folk performers were to join the NFT marketplace that is still gaining traction in India, they would be able to reap greater revenue than if they were to wait for more time.

Promoting Community Ownership of Folk Art

The sense of identity forms the crux of the origin of folk, and folklore is the expression of this identity. (Bharatan, 2015). This means that the folklore and folk art forms are representative elements of the identity of a folk community. By leveraging the NFT marketplace, the folk artists can bring to the limelight not just the art forms of the community but also help the wider audience better understand the culture and the conditions where these art forms have existed and continue to exist.

When an artist mints an artwork on the NFT marketplaces, it becomes a unique digital asset. (Tuğan, 2021). While minting, the artists of the original work of art can incorporate their signatures in the tokens. This not only ensures that the artwork gains a sense of authenticity, but it also ensures that the artwork can always be traced back to the original owner. (Rehman et al., 2021). By creating a community-owned and operated NFT account, members of the community can upload their artworks which would incorporate the signature of the community, thereby ensuring that the community would always remain the original owners of the work of art.

Additionally, the decentralised technology and the everlasting nature of the blockchain ensure that the public record of the ownership remains throughout. The tamper-proof mechanism also ensures that this record cannot be modified by anyone even at a later stage, thereby ensuring that the record is not manipulated.

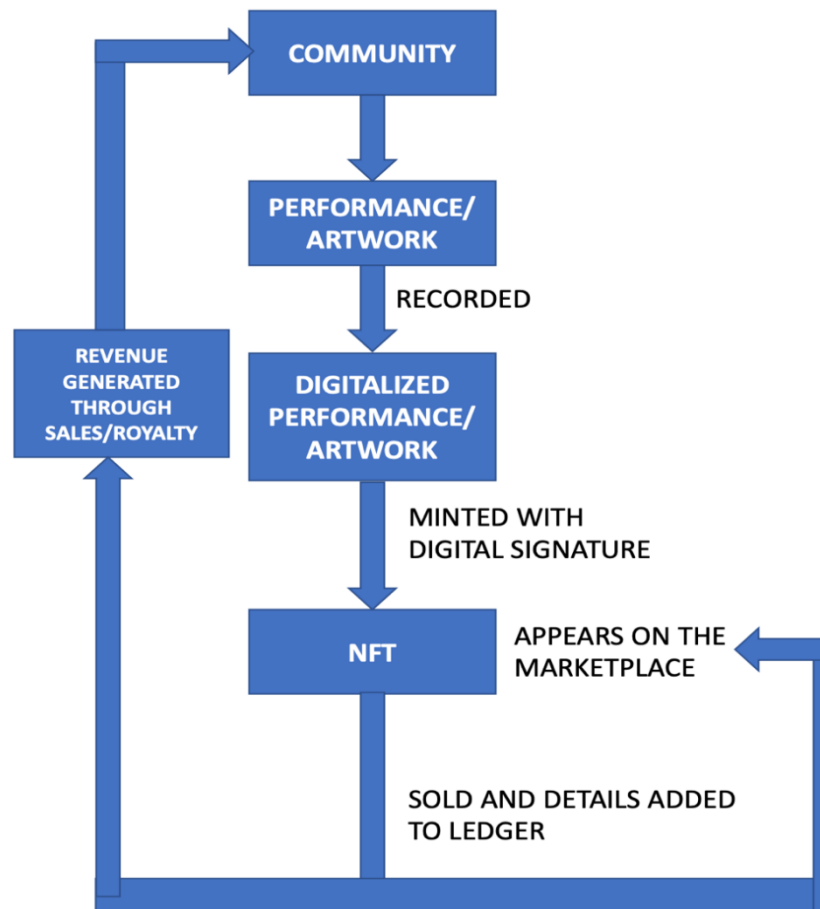


Figure 1: Community-NFT revenue flowchart—the processes detailing how the artwork becomes an NFT and revenue is generated by the community.

Remodelling Revenue Streams

One of the critical elements that NFTs have been able to realise through blockchain's distributed ledger technology is that the proof of ownership record is publicly available to anyone and from anywhere. The concept of royalty which was previously a tedious task can now be realised due to the advents made by technology. (Rehman et al., 2021). Once an artwork is minted, the ledger incorporates the digital signature included with the NFT. This ensures that no matter how many transactions take place, each transaction is stored in the ledger, including the details of the first account from which the NFT was minted. This data can

then be used to provide royalty for each transaction that occurs. Therefore, the community would gain a steady stream of revenue each time the art gets sold. The community can then use this revenue stream in numerous ways, not just to propagate their artworks but also better the conditions of the community. The community would be able to eliminate the mediators from the outside involved and thereby gain direct control of the revenue stream.

Although the initial cost of performing the art form and minting it to an NFT can be considerably high, it would eliminate numerous other costs that the community would have to encounter, such as travelling to the different places each time for the performance, the marketing required before each performance, and so on. Once the NFT is minted, the community would have to endure no further costs, and it would remain in the marketplace. By eliminating the mediator, they also ensure that the money that would get spent in that regard gets eliminated. However, this may result in the disruption of live performances as it would affect the lived experience generated during the live performance. This would, in turn, affect the performers as well since this lived experience is considered one of the central elements of a folk performance.

Social exclusion and occupational discrimination are two factors that significantly affect minority groups such as tribal groups. While occupational discrimination includes the differential treatment that members of such communities have to face during the acquisition of factors and services required to enter the market, social exclusion entails the different practices through which these community members are unable to participate either wholly or partially in the different institutions that define social membership such as economic, educational, and social. (Thorat & Newman, 2007). To this extent, the money that is garnered by the community in the form of royalty can be used at a later stage by the community as the seed money to mint further NFTs, thereby eliminating the need for any intervention from the outside. This would not only ensure that the community becomes more self-sufficient, but they would also be the direct owners of the revenue thus generated.

Challenges and Impediments of the New Landscape

Although the NFT landscape offers multiple advantages, the sailing may not be too smooth. This becomes evidently so in the case of tribal communities and folk performers who have just boarded the digital bandwagon. Therefore, care needs to be taken while taking on the NFT landscape.

In addition to the disruption of live performances that may result from the adoption of NFTs, there are other avenues that need to be treaded carefully. A shift to the NFT landscape may create a sense of dependency on the part of the performers with a group of community members who are technologically adept and would be controlling the landscape. This could, in turn, lead to a centralisation of the art forms within the community wherein the power would be centralised in the hands of the technologically adept few. This could lead this group to exercise hegemonic control over the performers. Therefore, care has to be taken to prevent this centralisation of control in the hands of a select few who would then be able to exercise hegemonic control over the performing members of the community. Additionally, they would be forced to rely on the information technology infrastructure developed by "other people" and thereby bind them to these technologies (Whitaker, 2019).

Cybersecurity and privacy issues have multiplied with the digital world's developments. The increased dependence on information and communication technologies with the onset of the pandemic has brought these issues out in the open. The techniques of attacks have diversified and vary from simple computer viruses to highly complicated cyber attacks (Sidhu & Singh, 2021). Selling of counterfeit NFTs, copying of NFTs, false airdrops, NFT giveaways, and so on are some of the threats faced by users in this regard. (Rehman et al., 2021). These are just some of the issues that the users may face when entering the world of NFTs. Therefore, caution should be exercised while minting and selling NFTs and also while navigating the NFT marketplace.

Conclusion

The world has been significantly affected by the covid-19 pandemic. As a result, changes have been afoot in numerous sectors. One such pandemic-induced shift can be considered to be the adoption of the Internet world by numerous folk performers in India whose livelihoods were significantly affected by the lockdowns. (Jain, 2020). In this light, the paper envisioned how the world of the Internet, specifically NFTs, can help folk performers and their communities.

The advantages offered by the NFT landscape are numerous, and it can help the folk performers and the communities in which these art forms are situated to gain greater recognition. However, there are also a few impediments that may affect a smooth transition into the NFT landscape. Those performers looking to enter the NFT landscape need to be aware of both the opportunities it offers and understand the possible challenges.

Notes:

The IPA script for the words in Malayalam that have been used in the text are as given below:

1. /mamgalamkaʎi/
2. /malavar/
3. /malavettuvar/
4. /ku:ttə/
5. /u:ra:ʎi/
6. /maŋŋa:n/
7. /muttuva:n/

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