

# **THE IMPLEMENTATION OF PUBLIC POLICY ON ACCESSIBILITY FOR PEOPLE WITH DISABILITIES IN EMPLOYMENT OPPORTUNITY: A CASE STUDY OF INDONESIA**

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## **ABSTRACT**

Accessibility for persons with disabilities in employment opportunities in Indonesia is still a public debate. Laws regulating the rights of persons with disabilities have been widely drafted. The most recent law namely Act No. 8 of 2016 is called open access which provides protection to persons with disabilities. This law places a person with disabilities as a subject (a recognized human being) that is a dignified human being who has the same rights as a citizen and not as an object for charity as many have stated in the previous law. However, the implementation does not run as expected. In this research, in depth interview was done and questionnaire was used as triangulation. This research proves that the newest Act for People with Disabilities in Indonesia has not been implemented properly, there are still many obstacles faced that must be followed up not only by the government but also all related parties.

**Keywords:** People with disability, accessibility, employment opportunity.

## **INTRODUCTION**

Accessibility is a part of human life. However, not everyone can get adequate access, such as special needs people who often get difficulty in accessing various things. This has to do with the negative stigma embedded in many people that persons with disabilities are the second priority. Whereas accessibility is a bridge for the disabled to be able to socialize with outside life.

The number of persons with disabilities in Indonesia is 12.15 percent of the total population with the average category is 10.29 percent and the weight category is 1.87 percent (BPS, 2016). From 12.15 percent of people with disabilities, 45.74 percent do not pass elementary school and it turns out that women dominated the number that reached 53.37 percent. While the remaining 46.63 percent are male.

Accessibility limitation for the disabled still occurs, including access to obtain proper jobs. People with disabilities are still considered marginalized. Yet every Indonesian citizen regardless of tribe, religion, race, sex and others have the same right to get a job or doing work as stated in Article 28D Paragraph (2) of the 1945 Constitution which states that every person shall have the right to work and to receive fair and reasonable remuneration and treatment in the employment relationship. The issue of providing employment opportunities for persons with disabilities is complicated and requires a holistic attention and participation, especially for the government, both in central and local levels. The lack of job absorption for persons with disabilities is one proof of the lack of attention both from government and employers to employ workers with disabilities.

Article 27 Paragraph (2) of The 1945 Constitution states that "All citizens are entitled to decent work and livelihood", meaning that there is equal rights for every citizen without distinguishing physical condition. In addition article 34, paragraph 3 states that, "The State is responsible for the provision of health facilities and decent public service facilities". This means that the government is obliged to provide accessible adequate public services for the community.

Therefore the research question below has driven me to choose this topic aims at describing the current phenomenon of the disability and accessibility in employment in Jakarta, and the extent to which disability rights are respected and protected:

- 1) How is the implementation of Act Number 4 of 1997 on People with Disabilities?
- 2) What are the constraints faced by persons with disabilities in obtaining employment opportunity?
- 3) What efforts should be made to enable persons with disabilities to have a chance to work?

## LITERATURE REVIEW

### Definition of Implementasi

"Implementation" refers to the "carrying out of a basic policy decision," with a scope of activities that broadly includes the development of administrative regulations; numerous processes to carry out policies such as granting, other expenditure of funds, and development of advisory or feedback bodies; building capacity of local implementing agencies; and monitoring processes. This is certainly not an easy thing in implementing a policy. Therefore, Hood, as Hill and Hupe (2002) suggest as follows.

"One way of analysing implementation problems is to begin by thinking about what 'perfect administration' would be like, comparable to the way in which economists employ the model of perfect competition. Perfect administration could be defined as a condition in which 'external' elements of resource availability and political acceptability combine with 'administration' to produce perfect policy implementation." (Hill and Hupe, 2002: p.51).

While Elmore (1985) identifies four key ingredients for effective implementation: (a) clear tasks and objectives that accurately reflect the policy intent, (b) management plans that allocate tasks and performance standards to sub-units, (c) objective goals for measuring sub-unit performance and control management systems and social sanctions, (d) guide his subordinates to be responsible for their performance. Elmore further identifies some of the things that are relevant to the effective implementation of public policy including adequate participation of the target community. Citizens must be actively involved in directing the policy in order to achieve optimal results.

Understanding the nature of policy implementation is important because international experience shows that policy, once adopted, is not always implemented as envisioned and does not necessarily achieve the expected results. De Groff also stated that there are three factors that influence the implementation process of government networks, sociopolitical and democratic contexts, and new public management. While Frawley (1977: 22-7) identifies five sources that are central to the error or fallacy between public policy intent and its execution, namely (a) interpretation and definition of purpose; (b) development of guidelines and regulations; (c) delegation and communication; (d) implementation; and (e) monitoring.

A public policy cannot be implemented without evaluation. A policy evaluation is conducted to assess the extent to which the policy effectiveness is to be accountable to the public in

order to achieve its stated objectives. Evaluation is needed to see the gap between expectations and reality. As explained by Juma and Onkware (2015) that policy evaluation is necessary: (a) to know its achievements, (b) to assess its quality, (c) to make futuristic decisions of the program, (d) to determine the implementation and results. Types of Policy Evaluation include: Process Evaluation, Outcome Evaluation, Impact Evaluation, and Cost Benefit Evaluation. Knowing the intricacies in each type / type of evaluation is very important as in the evaluation of the process in which the chain ends with finding a solution. Incompetent evaluators will not do this (evaluation process = what's wrong with the current performance + problem + solution + improve performance based on recommendations).

### **People With Disabilities related policies**

According to Law No. 4 of 1997, there are several types of special needs / disabilities, namely:

Mental Disorder, Physical Disabilities and Multiple Disabilities. Mental disorder consists of: (a). High Mental. It is often known as intellectual gifted people in which in addition to having above average intellectual ability he also has creativity and responsibility for the task, (b) Low Mental. Low mental ability or intellectual capacity / IQ (Intelligence Quotient) is a person who has IQ below average. There are 2 groups of slow learner i.e children who have IQ (Intelligence Quotient) between 70-90 and children who have an IQ (Intelligence Quotient) under 70 who are known as children with special needs, (c) Specific Learning Difficulty. Learning difficulties related to achievement of learning (achievement) obtained. Physical disabilities include: (a). Body Disorder, namely an individual with movement disorders caused by neuro-muscular abnormalities and bone structures that are congenital, ill or accidents (organ loss), polio and paralysis, (b). Disorders of the visual impairment. People with visual impairment can be classified into two groups namely: total visual loss and low vision, (c). Hearing Loss. People with hearing impairment are individuals who have permanent or impermanent hearing impairments. (d). Speech disorder is someone who has difficulty in expressing the mind through verbal language, making it difficult even not understandable by others. This speech disorder can be functional where it may be due to hearing loss, and organically caused by imperfection of speech or motor-related speech disorders. Besides the above mentioned disabilities, the policy also define multiple disabilities, namely an individual who have more than one type of disability namely physical disability and mentally disability.

The public service should pay attention to the principles of justice and non-discrimination, as contained in Act 25 of 2009 on Public Service. According to the law, public services are said to be good if they meet some of the principles of public interest, legal certainty, equality of rights, balance of rights and obligations, professionalism, participatory, equality of treatment, openness, accountability, facilities and special treatment for vulnerable groups, timeliness, and speed of ease and affordability. Thus, it is clear that public services should pay attention to justice and hospitality to people with special needs such as special needs people as one of the vulnerable groups other than women and children. In the law, the disabled is indeed granted these rights, rights to education, rights to work according to disability, accessibility, and others. However, the rights are solely facilitated by the government without any direction to the disabled and his family.

Article 41 (2) of Act No. 39 of 1999 on Human Rights states that everyone with disabilities, elderly people, pregnant women and children shall be entitled to special facilities and privileges. Article 42 emphasizes that every elderly citizen, physically disabled and or

mentally disabled shall be entitled to special care, education, training and assistance at the expense of the state, to ensure a decent life in accordance with the dignity of his humanity, to increase his confidence, and the ability to participate in society, nation, and state.

Act No. 19 of 2011 on the Ratification of the Convention on the Rights of Persons with Disabilities states that everyone with a disability should be free from torture or cruel, inhuman, degrading human dignity, free from exploitation, violence and ill-treatment, and having the right to gain respect for their mental and physical integrity based on similarity with others. This includes the right to social protection and services in the context of independence, as well as in emergencies.

The rights of people with disabilities in employment opportunity are also covered by Article 9 of Act No 13 of 2003 on Manpower stating that job training for disabled workers is conducted with due regard to the type, degree of disability and ability of the disabled worker concerned and Article 4 of Government Regulation of the Republic of Indonesia No 43 of 1998 states that efforts to improve the social welfare of persons with disabilities are implemented through: a. equal opportunity, b. rehabilitation, c. social assistance, d. maintenance of social welfare.

The state has to set coordination and control the institution for the improvement of social welfare of persons with disabilities as stated in the Decree of the President of the Republic of Indonesia No 83 of 1999. The Government through Act No 4 of 1997 guarantees the rights to be obtained by persons with disabilities, including accessibility to employment opportunities. Article 6 states that every person with disabilities is entitled to:

- (1) Education in all units, lines, types, and levels of education;
- (2) Decent work and livelihood according to the type and degree of education, and ability;
- (3) The same treatment to participate in the development;
- (4) Accessibility in the context of discretion;
- (5) Rehabilitation of social assistance and maintenance of social welfare level; and
- (6) Equal rights to develop talents, abilities, and social life, especially for children with disabilities in the family and community.

In line with Act No. 4 of 1997 described earlier, Act No. 25 of 2009 explicitly states that public services have several principles that mandate accessibility to the disabled. Some of these principles include: (1). Public interest. The provision of services shall not be of any priority to the personal and / or group interests; (2). Legal certainty. Guarantees of the realization of rights and obligations in the service delivery; (3). Equal rights. The service delivery does not distinguish the ethnic, race, religion, class, gender, and economical status; (4). Rights and Obligations. The fulfillment of the rights must be proportional to the obligations performed by both the giver and the recipient of the service; (5). Professionalism. Executor of service must have competence appropriate with the task field; (6). Participatory. Increasing community participation in the delivery of services by taking into account the aspirations, needs, and expectations of the community; (7). Equality of treatment / non-discriminatory. Every citizen is entitled to a fair service; (8). Openness. Each recipient can easily access and obtain information about the desired service; (9). Accountability. The process of conducting services must be accountable in accordance with the provisions of legislation; (10). Special facilities and treatment for vulnerable groups. Providing convenience to vulnerable groups to create justice in service; (11). Punctuality. The completion of each type of service is done on time in accordance with the standard of service;

(12). Speed of convenience and affordability. Each type of service is done quickly, easily, and affordably.

As the implementation of Act No. 4 of 1997 on People With Disabilities, a Letter of the Minister of Manpower and Transmigration No. 01.KP.01.15.2002 (SE Menakertrans No. 01 / 2002) dated February 26, 2002 was issued concerning the Placement of persons with disabilities in the company. SE Menakertrans No. 01/2002 has mandated all the Heads of Department of Manpower and Transmigration at Provincial and District / City level to:

- a. disseminate Disability Law and Government Regulation no. 43 of 1998 on Efforts to Improve the Social Welfare of Persons with Disabilities as a placement effort in companies.
- b. conduct data collection of companies employing workers with disabilities on a regular basis (every 3 months).
- c. report the results of data collection of companies that have employed disability workers to the Minister of Manpower and Transmigration cq. Directorate General of Binalatpendagri

However, Act No. 4 of 1997 is reaping the pros and cons. There are still many people who think that this regulation still puts people with disabilities as an object of charity. This paradigm shift has indeed been followed up by the government with the issues of Act No. 8 of 2016 on People with Disabilities. Thus the position of persons with disabilities as subject (recognized existence) is a dignified human being who has the same rights as other citizens. Accessibility arrangements for disables are more clearly and explicitly regulated in other Government Regulations which also ensure equal opportunity in rights, obligations and roles in accordance with their abilities in the nation namely Act No 43 of 1998 concerning efforts to improve the social welfare of persons with disabilities. Article 6 states: "The equal opportunity for persons with disabilities in all aspects of life and livelihood is carried out through the provision of accessibility."

Protection of employment opportunities for disabled workers is recognized in Act No. 13/2003 on Manpower, specifically on Article 5 and 28 stating that employers should employ at least 1 (one) person with disabilities who meet the job requirements and job qualifications for every 100 (one hundred) workers in their company. This is in accordance with the provisions of article 14 of the Act on Persons with Disabilities which affirms that the company shall employ at least 1 (one) person with disabilities who meet the requirements and qualifications of the work concerned for every 100 (one hundred) employees. It is followed by a second explanation that companies using high technology should employ at least 1 (one) person with disabilities who meet the requirements and qualifications of the work even if the number of employees is less than 100 (one hundred) persons.

## RESEARCH METHODS

In this research, a qualitative research method is applied. The purpose of qualitative research is not formulating general statements but exploring specific social contexts to achieve better understanding of specified social settings. That is why the qualitative sample is selected purposefully (Patton, 1990 as quoted in Crabtree & Miller 1992, p. 19).

The types of data required in this study include primary data and secondary data. The data were collected by interview and documentation techniques. Data analysis technique used in this research is qualitative analysis technique. The process of data analysis begins by

reviewing all data that has been obtained from various sources. Then data reduction was done by making the abstraction. The next step is to organize the data in units. The units were then categorized in the next step. Categorization was done while making coding. The last stage was to check the validity of the data. After this stage was completed, then interpretation of data was started (Moleong, 2008). So that the stages in qualitative data analysis include: data unit processing, data reduction, categorization of data including checking the validity of data, and interpretation of data. Finally, the researcher used triangulation technique that was through three stages of checking: First, triangulation of data source was obtained through interview technique. Second, a peer review was done to find out the opinions of researchers and other experts who have conducted similar research. Third, triangulation through questionnaires gave broader perspectives of what is perceived by people with disabilities. In-depth interviews were conducted towards 4 persons with disabilities consists of 2 persons working in private companies, 2 persons working in governmental agencies. Interviews were also carried out with 1 NGO representative, 2 managers in private companies, and 1 government official of the Ministry of Social Affairs to obtain a broad and deep information on accessibility of people with disability on employment opportunity.

## **RESEARCH FINDINGS AND ANALYSIS**

### **Interview with workers with disabilities**

From the interviews with participants working in governmental agencies, it is known that they started to work in 2003 and 2005. Both were accepted to work after a very long process. "When I came with a job application letter, I was even rejected by the officer who told me straight away that there was no suitable position for me only because I was sitting in a wheelchair. It was very painful. This incident occurred in 2003, 6 years after the Act No. 4 of 1997 was issued which states that the state guarantees the right to be obtained by persons with disabilities, including accessibility in service. Even Article 6 clearly states that persons with disabilities are entitled to decent employment and livelihoods in accordance with the type and degree of their duties, education, and abilities." This proves that the regulation made by the government has not been well socialized. There are still many officers in government offices who have not understood this rule. Another employee with only one arm even said that at the beginning he was accepted to work in government agencies, people did not cease to look and talk about him as if there was something very strange. Persons with disabilities became employees in government agency. "I was always bullied both by employees and visitors who came. If there was a complaint from the customers who came by, they always said: "No wonder the service is slow, they hired disabled staff. Even to this day, there are still things that lead to discrimination. "It proves that socialization and education to the public have not been implemented well yet it is very important in achieving equal treatment for people with disabilities.

Two persons with disabilities who work in private companies also said almost the same thing. They were accepted to work in the factory in the year 2000, after being rejected. Actually there had been already a law that required companies to employ people with disabilities at least 1% of the total employees. From the interview, it is known that the first three years since the law was issued, the government has been very intensive to do monitoring on disabled people employment in private companies. However, in practice training was never conducted and the worker with disability had to learn from other employees. From the interview, it is found that there has never been a government official coming to monitor people with disabilities working in the company." This is in line with Frawley's statement (1977: 22-7) which states that one of the five sources that became the center of error or error

between the public policy intent and its execution is monitoring. Without monitoring, implementation cannot be measured for success.

From the interviews, it is found that until now there are still many companies that discriminate against people with disabilities by refusing them to be employees. Whereas in Act No 4 of 1997 it is stipulated that every private company with a minimum of 100 employees and its multiplication are obliged to give a one percent quota for the worker with disabilities. However, in reality the implementation of the regulation is still far from the expectations. There are still many companies do not follow the regulation. One of the reasons why there are a lot of companies have not implemented the regulation is that there is no strict sanction taken by the government for companies that violate the regulation. Act No. 4 of 1997 should not only regulate a one percent quota for persons with disabilities but also set sanctions against violating companies. It should also explain which agency has the authority to conduct supervision and sanction if there is a violating company.

### **Interview with 2 managers of private companies**

The author also conducted interviews with 2 managers of private companies. From the interview, it is known that one of the companies has already employed 7 persons with disabilities, each of whom is placed in accordance with the skills, interests and talents. The persons with disabilities in the company consist of 4 staff with wheelchairs, and 3 staff who have hearing impairment. "Initially we still encountered obstacles in the implementation, among others, we had to invite special teachers from special schools to be able to interpret communication in sign language, but over time several staff in HR department also learn sign language to communicate with our staff with hearing impairment. We also regularly organize training or briefings to improve the quality of their work. "

When asked what aspects need to be improved of the regulations on people with disabilities, he said that first, to date government officers hardly ever come to monitor companies and factories so they do not know precisely the development. Yet the letter of Minister of Manpower and Transmigration in 2002 states that monitoring and evaluation to know the implementation of people with disabilities in employment opportunity should be done regularly every 3 (three) months. Second, socialization is also done very rarely. Third, sanctions for industries that do not employ people with disabilities are also unheard of, so it is not surprising that so far there are still many companies do not apply the regulation, although the number of employees is already above 100 people. Many of them argue that there are concerns about the safety of persons with disabilities employed in factories whereas they can actually be employed in areas appropriate with their expertise.

### **Interview with representative from the government**

Government of Indonesia continues to work towards a proportional and fair working environment, especially for people with disabilities. This is done by opening the widest access in several job markets for people with disabilities. There are currently hundreds of job vacancies in the banking sector have been socialized through the local labor services.

"This condition proves that people with disabilities have got an opportunity to work in the formal sector. Opportunities to work for them remain open apart from jobs in the informal sector. It can be said that the absorption of work for them is quite proportional. Until September 2016, there have been 1,742 persons with disabilities working in the formal sector. Thousands of people with disabilities work in 135 service companies, electronics, IT and

industries. In addition, there have been over 40 persons with disabilities working as civil servants in a number of ministries.

The Government of Indonesia is strongly committed to open access to work for people with disabilities. This is proved by the existence of Act No. 8 of 2016 on Persons with Disabilities. Under the Act, there is a requirement for the proportion of recruitment of persons with disabilities. "Of 100 people who are accepted as civil servants, there must be at least two persons with disabilities among them. Meanwhile, in the private sector, out of 100 people who are accepted to work, there must be at least one person with disabilities included. He affirmed that there are persons with disabilities working in Jakarta Provincial Government. One of them, a staff with visual impairment, some who work as teachers, and others who sit on the wheelchairs.

When asked about the employment opportunities of people with disabilities in private companies, he answered that until now the development is good enough. We also monitor companies and see firsthand how people with disabilities work in an office or factory. However until now there are indeed companies that do not want to follow the rules. The reason is various. On average they say there is no suitable position, others reply that the number of employees in their office is still less than 100. When asked whether the government imposed sanctions on companies that do not obey the rules, he replied that to date it is still difficult to apply sanctions in which the government itself in the policy has not explicitly mentioned which agency is entitled to charge companies that do not obey the rules.

#### **Interview with NGO Representative**

From an interview with NGO representative, it was found that Act No. 4 of 1997 should be revised. This Act still mentioned people with disabilities as an object of charity. It also still defined the problems of people with disabilities as limited as social and health, but it did not touch the cultural, economical and other issues. This paradigm shift has indeed been followed up by the government with the issue of Act No. 8 of 2016 on People with Disabilities. Thus the position of persons with disabilities as subject (recognized existence) is a dignified human being who has the same rights as other citizens.

There is one thing that is interesting in the Act of Persons with Disabilities, especially with regard to employment. This Act provides minimum requirements for the presence of persons with disabilities in the workplace. It is set forth in Article 53. The rule stipulates that the government, local government, State-Owned Enterprises and Regional Government-Owned Enterprises shall employ at least two percent of persons with disabilities of the total number of employees. Meanwhile, private companies are required to employ at least one percent of persons with disabilities from the total number of employees. Accordingly, pursuant to Article 50 of People with Disabilities Act, each employer is required to provide adequate accommodation and facilities accessible to the workforce of persons with disabilities. However in its implementation, there are still many private companies have not obeyed this rule even government agencies have not fulfilled the quota of "2 percent" of the total number of employees in the institution.

The one percent quota of employment for persons with disabilities as mandated by Act No. 4 of 1997 has not been fully implemented. This is due to unclear sanctions imposed on companies or government agencies that do not want to employ people with disabilities. Arrangement of sanctions concerning employment for persons with disabilities is set forth in Article 28. In paragraph 1, there is a criminal penalty in the form of a maximum



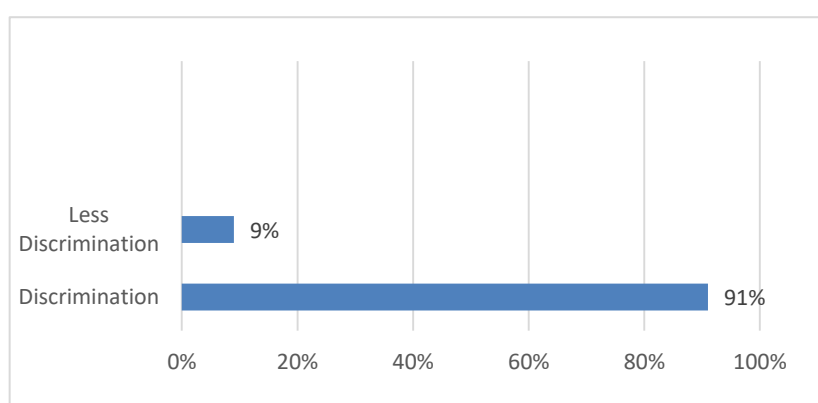
imprisonment of 6 months or a maximum fine of IDR 200,000,000 (two hundred million Rupiahs). The provision of sanctions in addition to more meaningful harassment than the appreciation for persons with disabilities, there is a judiciary discretion to determine the punishment ranging from 0-6 months of imprisonment or a fine of IDR 200,000,000. Since the Disability Act was enacted in 1997, until now no one has been found guilty by the court relating to the sanctions provision in Article 28 of the People with Disabilities Act. This policy also does not explicitly specify the institution entitled to conduct an investigation. Even the offending party cannot easily be determined and brought to justice. Therefore, the Union of Persons with Disabilities in Indonesia urges clarification of sanction implementation towards companies or agencies that do not provide accessibility for employment opportunities of persons with disabilities.

NGO representative also criticizes government who have never evaluated policies and the implementation in the field which makes it difficult to measure their achievements. This is in accordance with the statement of Juma and Onkware (2015) that a policy evaluation should be undertaken to: (a) know its achievements, (b) assess its quality, (c) make futuristic decisions of the program, (d) determine implementation and results.

### Questionnaires Analysis

Questionnaires were distributed to 25 persons with disabilities aged between 20 and 35 years old who do not work in formal institutions to get a broader picture of their perspectives on employment opportunity. The questionnaires consist of a set of combinations of close-ended and open-ended questions. When asked how they perceive on employment opportunity in Indonesia, 91% answer they still experience discrimination and were rejected when proposing an application letter to both governmental agencies and private companies. Only 9% say there has been some improvements. This can be seen from the number of persons with disabilities working in the formal sector which is increasing compared to previous years. However, none of them says that the employment opportunity for people with disability in Indonesia is "good".

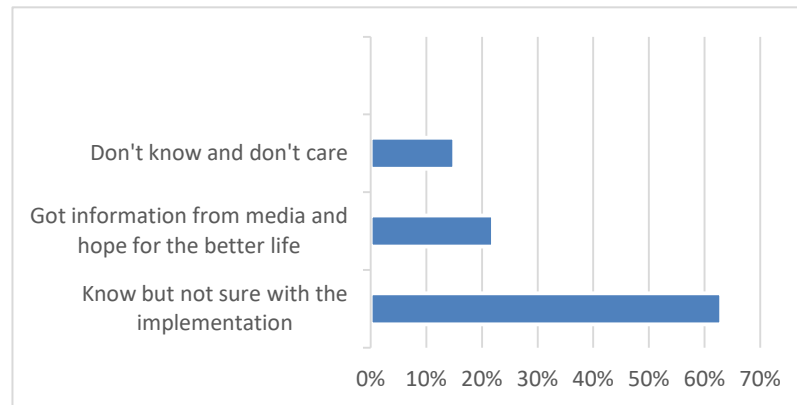
Figure 1: What is your opinion about employment opportunity for people with disabilities?



When asked if they know a revised Act on Persons with Disabilities and how they respond to it, 63% say they know about it but are still unsure of its implementation, Laws are made in detail but the implementation in the field is still very poor especially related to the officers who serve. 22% answer that they got information from social media but they have never heard of any government socialization of the new Act. However if this Act indeed protects

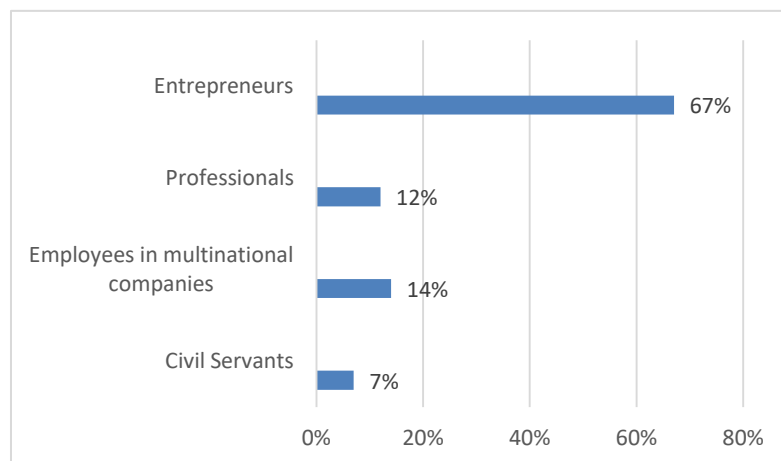
people with disabilities, they are happy and appreciate the government’s efforts that pay attention to their condition. While 15% respond that they do not know about it and do not really care because they have got too much disappointment by the discriminative treatment of officials.

Figure 2: Do you know that there is a new Act that can give more protection to people with disabilities?



When given the option of whether they still want to be employees, professionals or want to develop their own businesses, 67% say they want to develop their own businesses in order to open employment, especially for fellow disability, 7% say that they still have the desire to work as civil servants with the hope that with the new law there will be an improvement in the attitude and service of officials towards people with disabilities, 14% say they want to be employees in multinational companies because such companies value the rights of people with disabilities better. While 12% answer that they prefer being professionals but unfortunately until now it is still difficult to find a training institution that can provide appropriate program for them especially for the persons with visual impairment and hearing impairment.

Figure 3: What kind of job do you expect to get ?



**CONCLUSION**

From this research it can be concluded that until now people with disabilities have not received equal treatment as other citizens especially in accessibility on employment opportunity. There are still many persons with disabilities who experience discrimination.

Evaluation, monitoring and dissemination of the new Act on People with Disabilities has not been properly implemented so it is difficult to measure its achievements. The government should be more serious in implementing any policies issued. Cooperation with various stakeholders is needed so that people with disabilities in Indonesia can gain a better life equivalent to other citizens.

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