Right to Privacy in India

1) Introduction
   - The right to privacy is to restrain government and private actions that threaten the privacy of individuals.
   - Privacy is a human right enjoyed by every human being by virtue of his or her existence.
   - Privacy also extends to bodily integrity, personal autonomy, compelled speech and freedom to dissent or move or think.
   - Since the global surveillance disclosures of 2013, the right to privacy has been a subject of international debate.

2) Legal and constitutional status
   - Article 21 – Protection of life and personal liberty also include right to privacy
   - In People’s Union for Civil Liberties vs Union of India, Kharak Singh vs State of UP —- Supreme Court held that the right to privacy is a part of right to protection of life and personal liberty under Article 21.

3) Support to Right to Privacy
   - Ensure the dignity of the individual as mentioned in our Preamble.
   - Privacy helps to avoid unwanted and intrusive interference in an individual's personal affairs.
   - Without privacy, there would be nothing to stop a Big Brother-like entity from taking control of every aspect of life.
   - Rights to liberty and freedom of expression cannot survive if the right to privacy is compromised.
   - Mr. Nandan Nilakeni mentions, "We need a larger privacy bill, not just for Aadhaar but also for many other things like privacy in telephone tapping and in other online systems"
   - Art.12 of Universal Declaration on Human Rights and Art.17 of the International Covenant on Civil and Political Rights provide for the right of privacy.

4) Negatives
   - It can hinder the implementation and performance of welfare schemes -like Aadhar and Direct Benefits Transfer-which requires personal data of citizens.
   - Right to Privacy will also restrict police and intelligence agencies to collect private information about accused, dead persons etc.

5) Recent Developments
   - The Supreme Court stated that the right to privacy cannot be an absolute right and that the state may have some power to put reasonable restrictions.
   - A nine-judge Constitution bench is hearing arguments to determine whether the right to privacy is a fundamental right.
   - Data (Privacy and Protection) Bill, 2017 is introduced in the lok sabha.

6) Why there is a need to protect citizen information?
   - The current focus on the right to privacy is based on the realities of the digital age.
   - India is rapidly becoming a digital economy. Problems of ID theft, fraud and misrepresentation are real concerns.
• In recent years, several national programmes and schemes are implemented through information technology platforms, using computerised data collected from citizens.
• With more and more transactions being done over the Internet, such information is vulnerable to theft and misuse.
• Therefore any system of data collection should factor in privacy risks and include procedures to protect citizen information.

7) Concerns / Challenges
• No law has been passed and the term “privacy” has also remained undefined.
• Huge multinationals are taking data about millions of Indians abroad.
• Privacy consciousness is rather low in India compared to western countries.
• Indian institutions like joint family, temple festivals, marriage celebrations and community life do not encourage privacy.

8) Government’s role
• The government’s most basic obligation is to protect its citizens’ rights.
• Address concerns about data safety, protection from unauthorised interception, surveillance, use of personal identifiers and bodily privacy.
• The data controller should be made accountable for the collection, processing and use to which data are put.
• The government should also provide internal procedural safeguards with independent external monitoring for the protection of rights.
• There needs to be active user education that makes them aware of their choices.
• The government needs to start with aligning its technology laws with the evolving Internet landscape.

9) Aadhaar and privacy
• Petitioners argue that Aadhaar scheme which collects personal details and biometrics is a breach of privacy.
• Security concerns
  a. Aadhaar is mass surveillance technology which undermines security.
  b. Concerns about rising data leaks of sensitive information online
  c. Cyber security architecture is not very strong in India.

10) Way Forward
• We need a constitutional definition and guarantee of the right to individuality, personal autonomy and privacy in the digital age.
• State must put a robust personal data protection mechanism in place in this digital age
• Recognition of privacy as a fundamental freedom is an essential deterrent against intrusion into personal space.
• Protection to citizens against surveillance
• Balance must be maintained to protect privacy and to promote national interest.
• Impartial investigation and the option of criminal prosecution for gross violation.
• Judicial backing against violation of right to privacy.
• The Right to Privacy shall not be limited against the State, but also a right against the private corporations which collects citizen data.