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The intersectionality wars

When Kimberlé Crenshaw coined the term 30 years ago, it was a relatively obscure legal concept. Then it went viral.

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There may not be a word in American conservatism more hated right now than "intersectionality." On the right, intersectionality is seen as "**the new caste system**" placing nonwhite, non-heterosexual people on top.

To many conservatives, intersectionality **means** "because you're a minority, you get special standards, special treatment in the eyes of some." It "**promotes solipsism at the personal level and division at the social level**." It **represents** a form of feminism that "puts a label on you. It tells you how oppressed you are. It tells you what you're

allowed to say, what you're allowed to think." Intersectionality is thus "**really dangerous"** or a "**conspiracy theory of victimization**."

This is a highly unusual level of disdain for a word that until several years ago was a legal term in relative obscurity outside academic circles. It was coined in 1989 by professor Kimberlé Crenshaw to describe how race, class, gender, and other individual characteristics "intersect" with one another and overlap. "Intersectionality" has, in a sense, gone viral over the past half-decade, resulting in a backlash from the right.

In my conversations with right-wing critics of intersectionality, I've found that what upsets them isn't the theory itself. Indeed, they largely agree that it accurately describes the way people from different backgrounds encounter the world. The lived experiences — and experiences of discrimination — of a black woman will be different from those of a white woman, or a black man, for example. They object to its implications, uses, and, most importantly, its consequences, what some conservatives view as the upending of racial and cultural hierarchies to create a new one.

But Crenshaw isn't seeking to build a racial hierarchy with black women at the top. Through her work, she's attempting to demolish racial hierarchies altogether.

Meet Kimberlé Crenshaw

I met Kimberlé Crenshaw in her office at Columbia Law School on Manhattan's Upper West Side on a rainy day in January. Crenshaw, who is a professor at both Columbia and the University of California Los Angeles, had just returned from an overseas trip to speak at the Sorbonne and the London School of Economics.

Crenshaw is a 60-year-old Ohio native who has spent more than 30 years studying civil rights, race, and racism. In her mildly overheated office, the professor was affable and friendly as she answered questions while law students entered her office intermittently as they prepared for a panel discussion coincidentally titled "**Mythbusting Intersectionality"** scheduled for that evening.

Professor Kimberlé Crenshaw coined the term "intersectionality" in a 1989 academic paper. | Nolwen Cifuentes for Vox

But it's not just academic panels where the fight over what intersectionality is — or isn't — plays out. Intersectionality has become a dividing line between the left and the right. Sen. Kirsten Gillibrand (D-NY) **tweets** that "the future is female [and] intersectional." The Daily Wire's Ben Shapiro, meanwhile, posts **videos** with headlines like "Is intersectionality the biggest problem in America?"

The current debate over intersectionality is really three debates: one based on what academics like Crenshaw actually mean by the term, one based on how activists seeking to eliminate disparities between groups have interpreted the term, and a third on how some conservatives are responding to its use by those activists.

Crenshaw has watched all this with no small measure of surprise. "This is what happens when an idea travels beyond the context and the content," she said.

But those who have worked with her have seen how she can ask tough questions and demand hard answers, particularly on the subject of race, even of her closest allies. Mari Matsuda, a law professor at the University of Hawaii who has worked with Crenshaw on issues relating to race and racism for years, told me, "She is not one to back away from making people uncomfortable."

I also spoke with Kevin Minofu, a former student of Crenshaw's who is now a postdoctoral research scholar at the African American Policy Forum, a think tank co-founded by Crenshaw in 1996 with a focus on eliminating structural inequality. In Crenshaw's civil rights law class, he said, "what she did in the course was really imbue a very deep understanding of American society, American legal culture, and American power systems."

Minofu described Crenshaw's understanding of intersectionality as "not really concerned with shallow questions of identity and representation but ... more interested in the deep structural and systemic questions about discrimination and inequality."

The origins of "intersectionality"

To understand what intersectionality is, and what it has become, you have to look at Crenshaw's body of work over the past 30 years on race and civil rights. A graduate of Cornell University, Harvard University, and the University of Wisconsin, Crenshaw has

focused in much of her research on the concept of critical race theory.

As she **detailed** in an article written for the Baffler in 2017, critical race theory emerged in the 1980s and '90s **among a group of legal scholars** in response to what seemed to Crenshaw and her colleagues like a false consensus: that discrimination and racism in the law were irrational, and "that once the irrational distortions of bias were removed, the underlying legal and socioeconomic order would revert to a neutral, benign state of impersonally apportioned justice."

This was, she argued, a delusion as comforting as it was dangerous. Crenshaw didn't believe racism ceased to exist in 1965 with the passage of the Civil Rights Act, nor that racism was a mere multi-century aberration that, once corrected through legislative action, would no longer impact the law or the people who rely upon it.

There was no "rational" explanation for the **racial wealth gap** that existed in 1982 and persists today, or for minority underrepresentation in spaces that were purportedly based on "colorblind" standards. Rather, as Crenshaw wrote, discrimination remains because of the "stubborn endurance of the structures of white dominance" — in other words, the American legal and socioeconomic order was largely built on racism.

Before the arguments raised by the originators of critical race theory, there wasn't much criticism describing the way structures of law and society could be intrinsically racist, rather than simply distorted by racism while otherwise untainted with its stain. So there weren't many tools for understanding how race worked in those institutions.

That brings us to the concept of intersectionality, which emerged from the ideas debated in critical race theory. Crenshaw first publicly laid out her theory of intersectionality in 1989, when she published a paper in the University of Chicago Legal Forum titled "Demarginalizing the Intersection of Race and Sex." You can **read that paper here**.

The paper centers on three legal cases that dealt with the issues of both racial

discrimination and sex discrimination: ***DeGraffenreid v. General Motors***, ***Moore v. Hughes Helicopter, Inc.***, and ***Payne v. Travenol***. In each case, Crenshaw argued that the court's narrow view of discrimination was a prime example of the "conceptual limitations of ... single-issue analyses" regarding how the law considers both racism and sexism. In other words, the law seemed to forget that black women are both black and female, and thus subject to discrimination on the basis of both race, gender, and often, a combination of the two.

For example, *DeGraffenreid v. General Motors* was a 1976 case in which five black women sued General Motors for a seniority policy that they argued targeted black women exclusively. Basically, the company simply did not hire black women before 1964, meaning that when seniority-based layoffs arrived during an early 1970s recession, all the black women hired after 1964 were subsequently laid off. A policy like that didn't fall under just gender or just race discrimination. But the court decided that efforts to bind together both racial discrimination and sex discrimination claims — rather than sue on the basis of each separately — would be unworkable.

As Crenshaw details, in May 1976, Judge Harris Wangelin ruled against the plaintiffs, writing in part that "black women" could not be considered a separate, protected class within the law, or else it would risk opening a "Pandora's box" of minorities who would demand to be heard in the law:

> "The legislative history surrounding Title VII does not indicate that the goal of the statute was to create a new classification of 'black women' who would have greater standing than, for example, a black male. The prospect of the creation of new classes of protected minorities, governed only by the mathematical principles of permutation and combination, clearly raises the prospect of opening the hackneyed Pandora's box."

Crenshaw argues in her paper that by treating black women as purely women or purely black, the courts, as they did in 1976, have repeatedly ignored specific challenges that face black women as a group.

"Intersectionality was a prism to bring to light dynamics within discrimination law that weren't being appreciated by the courts," Crenshaw said. "In particular, courts seem to think that race discrimination was what happened to all black people across gender and

sex discrimination was what happened to all women, and if that is your framework, of course, what happens to black women and other women of color is going to be difficult to see."

"Usually with ideas that people take seriously, they actually try to master them, or at least try to read the sources that they are citing for the proposition. Often, that doesn't happen with intersectionality," Crenshaw told Vox. | Nolwen Cifuentes for Vox

But then something unexpected happened. **Crenshaw's theory went mainstream**, arriving in the **Oxford English Dictionary in 2015** and gaining widespread attention during the **2017 Women's March**, an event whose organizers noted how women's "intersecting identities" meant that they were "impacted by a multitude of social justice and human rights issues." As Crenshaw told me, laughing, "the thing that's kind of ironic about intersectionality is that it had to leave town" — the world of the law — "in order to get famous."

She compared the experience of seeing other people talking about intersectionality to an "out-of-body experience," telling me, "Sometimes I've read things that say, 'Intersectionality, blah, blah, blah,' and then I'd wonder, 'Oh, I wonder whose intersectionality that is,' and then I'd see me cited, and I was like, 'I've never written that. I've never said that. That is just not how I think about intersectionality.'"

She added, "What was puzzling is that usually with ideas that people take seriously, they actually try to master them, or at least try to read the sources that they are citing for the proposition. Often, that doesn't happen with intersectionality, and there are any number of theories as to why that's the case, but what many people have heard or know about intersectionality comes more from what people say than what they've actually encountered themselves."

How the right started worrying and learned to fear intersectionality

Beginning in 2015 and escalating ever since, the conservative response to intersectionality has ranged from **mild amusement** to outright horror. In 2017, writer Andrew Sullivan **argued** that intersectionality was a religion of sorts: In his view, intersectionality "posits a classic orthodoxy through which all of human experience is explained — and through which all speech must be filtered. Its version of original sin is

the power of some identity groups over others. To overcome this sin, you need first to confess, i.e., 'check your privilege,' and subsequently live your life and order your thoughts in a way that keeps this sin at bay."

When you talk to conservatives about the term itself, however, they're more measured. They say the concept of intersectionality — the idea that people experience discrimination differently depending on their overlapping identities — isn't the problem. Because, as David French, a writer for National Review who **described** intersectionality as "the dangerous faith" in 2018, told me, the idea is more or less indisputable.

"An African American man is going to experience the world differently than an African American woman," French told me. "Somebody who is LGBT is going to experience the world differently than somebody who's straight. Somebody who's LGBT and African American is going to experience the world differently than somebody who's LGBT and Latina. It's sort of this commonsense notion that different categories of people have different kinds of experience."

What many conservatives object to is not the term but its application on college campuses and beyond. Conservatives believe that it could be (or is being) used against them, making them the victims, in a sense, of a new form of overlapping oppression. To them, intersectionality isn't just describing a hierarchy of oppression but, in practice, an inversion of it, such that being a white straight cisgender man is made anathema.

"Where the fight begins," French said, "is when intersectionality moves from descriptive to prescriptive." It is as if intersectionality were a language with which conservatives had no real problem, until it was spoken.

In a 2018 **clip for Prager University**, an online platform for conservative educational videos, pundit Ben Shapiro described intersectionality as "a form of identity politics in which the value of your opinion depends on how many victim groups you belong to. At the bottom of the totem pole is the person everybody loves to hate: the straight white male." At the end of the video, Shapiro concludes, "But what do I know? I'm just a straight white male."

In an interview, Shapiro gave me a definition of intersectionality that seemed far afield

from Crenshaw's understanding of her own theory. "I would define intersectionality as, at least the way that I've seen it manifest on college campuses, and in a lot of the political left, as a hierarchy of victimhood in which people are considered members of a victim class by virtue of membership in a particular group, and at the intersection of various groups lies the ascent on the hierarchy."

And in that new "hierarchy of victimhood," Shapiro told me, white men would be at the bottom. "In other words, if you are a woman, then you are more victimized than a man, and if you are black, then you're more victimized than if you were white. If you're a black woman, you are more victimized than if you are a black man."

I had sent Shapiro Crenshaw's 1989 paper prior to our conversation. The paper, Shapiro said, "seems relatively unobjectionable." He just didn't think it was particularly relevant. "I first started hearing about this theory in the context of a lot of the discussions on campus, the **'check your privilege' discussions**. That was the first place that I came across it, and that's honestly the place that most people first came across it in the public eye."

"I call that the anti-intersectionality intersectionality"

Crenshaw said conservative criticisms of intersectionality weren't really aimed at the theory. If they were, and not largely focused on whom intersectionality would benefit or burden, conservatives wouldn't use their own identities as part of their critiques. (Shapiro's tongue-in-cheek disclaimer of "I'm just a straight white male," for example.) Identities simply wouldn't matter — unless, of course, they actually do, and the people at the top of our current identity hierarchy are more concerned about losing their spot than they are with eliminating those hierarchies altogether.

"When you're going to sign on to a particular critique by rolling out your identity, exactly how was your identity politics different from what you're trying to critique?" Crenshaw said. "It's just a matter of who it is, that's what you seem to be most concerned about."

There's nothing new about this, she continued. "There have always been people, from the very beginning of the civil rights movement, who had denounced the creation of equality rights on the grounds that it takes something away from them."

To Crenshaw, the most common critiques of intersectionality — that the theory represents a "new caste system" — are actually affirmations of the theory's fundamental truth: that individuals have individual identities that intersect in ways that impact how they are viewed, understood, and treated. Black women are both black and women, but because they are *black women*, they endure specific forms of discrimination that black men, or white women, might not.

But Crenshaw said that contrary to her critics' objections, intersectionality isn't "an effort to create the world in an inverted image of what it is now." Rather, she said, the point of intersectionality is to make room "for more advocacy and remedial practices" to create a more egalitarian system.

"Intersectionality was a prism to bring to light dynamics within discrimination law that weren't being appreciated by the courts," Crenshaw said. | Nolwen Cifuentes for Vox

In short, Crenshaw doesn't want to replicate existing power dynamics and cultural structures just to give people of color power over white people, for example. She wants to get rid of those existing power dynamics altogether — changing the very structures that undergird our politics, law, and culture in order to level the playing field.

Still, as Crenshaw told me, "plenty of people choose not to assume that the prism [of intersectionality] necessarily demands anything in particular of them."

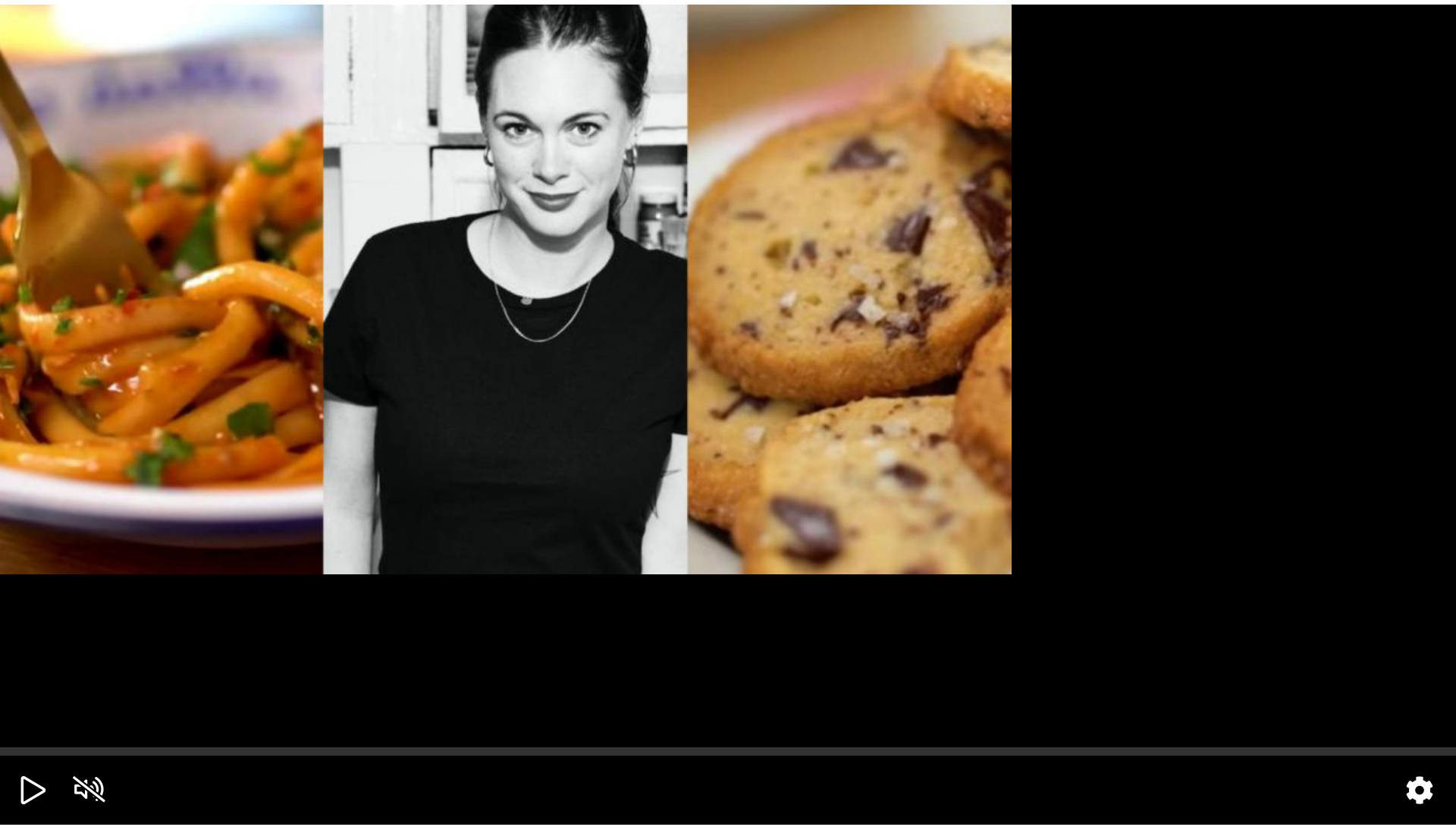
The conservatives I spoke to understood quite well what intersectionality is. What's more, they didn't seem bothered by intersectionality as legal concept, or intersectionality as an idea. (I asked Shapiro this question directly, and he said, "the original articulation of the idea by Crenshaw is accurate and not a problem.") Rather, they're deeply concerned by the practice of intersectionality, and moreover, what they concluded intersectionality would ask, or demand, of them and of society.

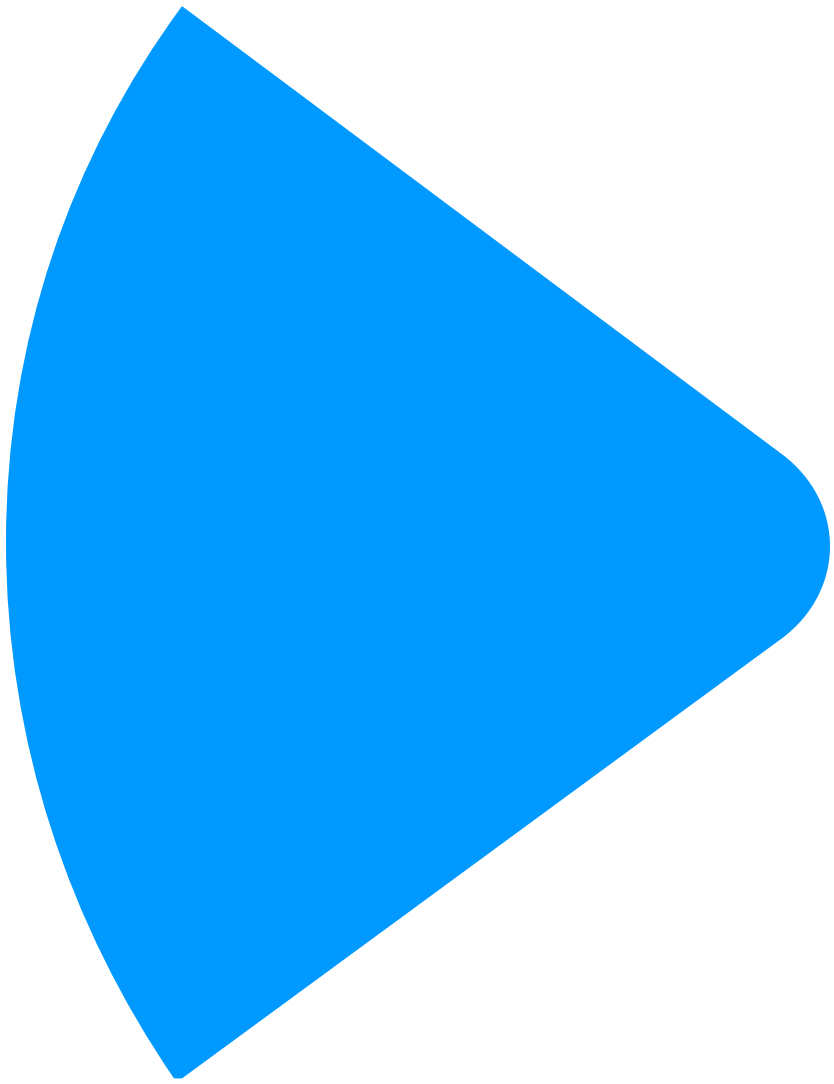
Indeed, intersectionality is intended to ask a lot of individuals and movements alike, requiring that efforts to address one form of oppression take others into account. Efforts to fight racism would require examining other forms of prejudice (like anti-Semitism, for example); efforts to eliminate gender disparities would require examining how women of color experience gender bias differently from white women (and how

nonwhite men do too, compared to white men).

This raises big, difficult questions, ones that many people (even those who purport to abide by “intersectionalist” values) are unprepared, or unwilling, to answer. Once we acknowledge the role of race and racism, what do we do about it? And who should be responsible for addressing racism, anyway?

Intersectionality operates as both the observance and analysis of power imbalances, and the tool by which those power imbalances could be eliminated altogether. And the observance of power imbalances, as is so frequently true, is far less controversial than the tool that could eliminate them. ▪





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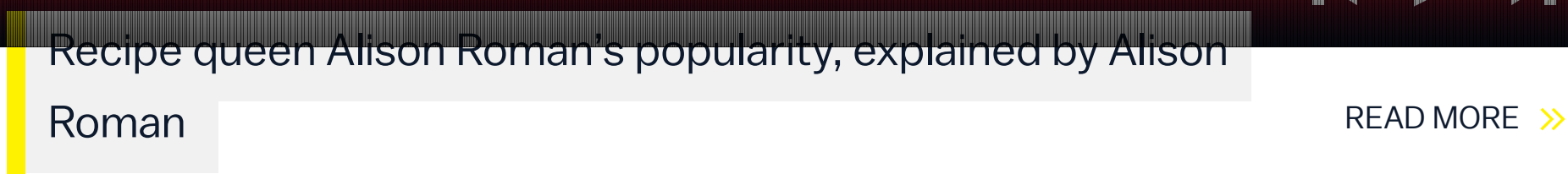

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