

FACULTY OF SCIENCE

MINIA UNIVERSITY



Journal of Arab Studies

A Peer-Reviewed Scientific Periodical

Issue Fifty-Two — June 2025 | Volume Five

Translated by Atyar Law Company

About the Journal

The Journal of Arab Studies has been issued by the Faculty of Dar Al-Uloom (currently the Faculty of Dar Al-Uloom) at Minia University since 1996. It is a peer-reviewed scientific journal published quarterly, specializing in the publication of research and studies in the fields of Arabic and Islamic studies, in accordance with the mission and goals of the university, and in line with the regulations and standards of the Scientific Research Sector in Egyptian universities.

<http://dram.journals.ekb.eg/journal/about>

1/1

Objectives and Scope:

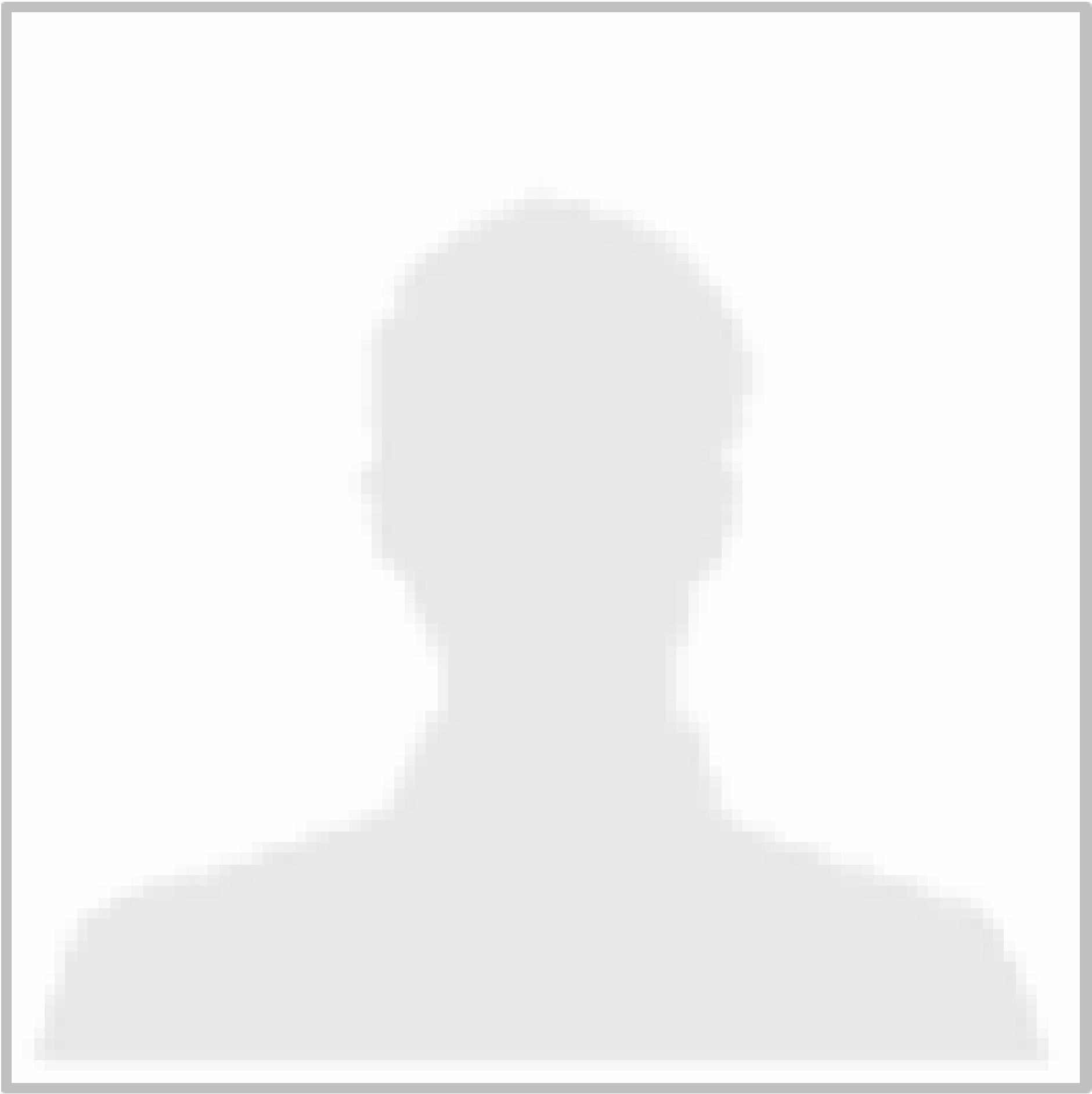
The journal aims to shed light on some aspects of scientific activity at Minia University through publishing original scientific research in the fields of Arabic and Islamic studies, in a way that contributes to enriching these sciences and strengthening their position within the academic system inside and outside the university, through:

1. Effective participation with universities, institutes, and scientific research centers locally and internationally to advance the research movement in Arabic and Islamic sciences.
2. Providing a platform for publishing original scientific research in Arabic and Islamic sciences.

Journal Topics:

- Grammar, morphology, and prosody.
- Arabic language and Semitic and Eastern languages.
- Literary studies.
- Rhetoric, literary criticism, and comparative literature.
- Islamic Sharia.
- Islamic history and Islamic civilization.
- Islamic philosophy.

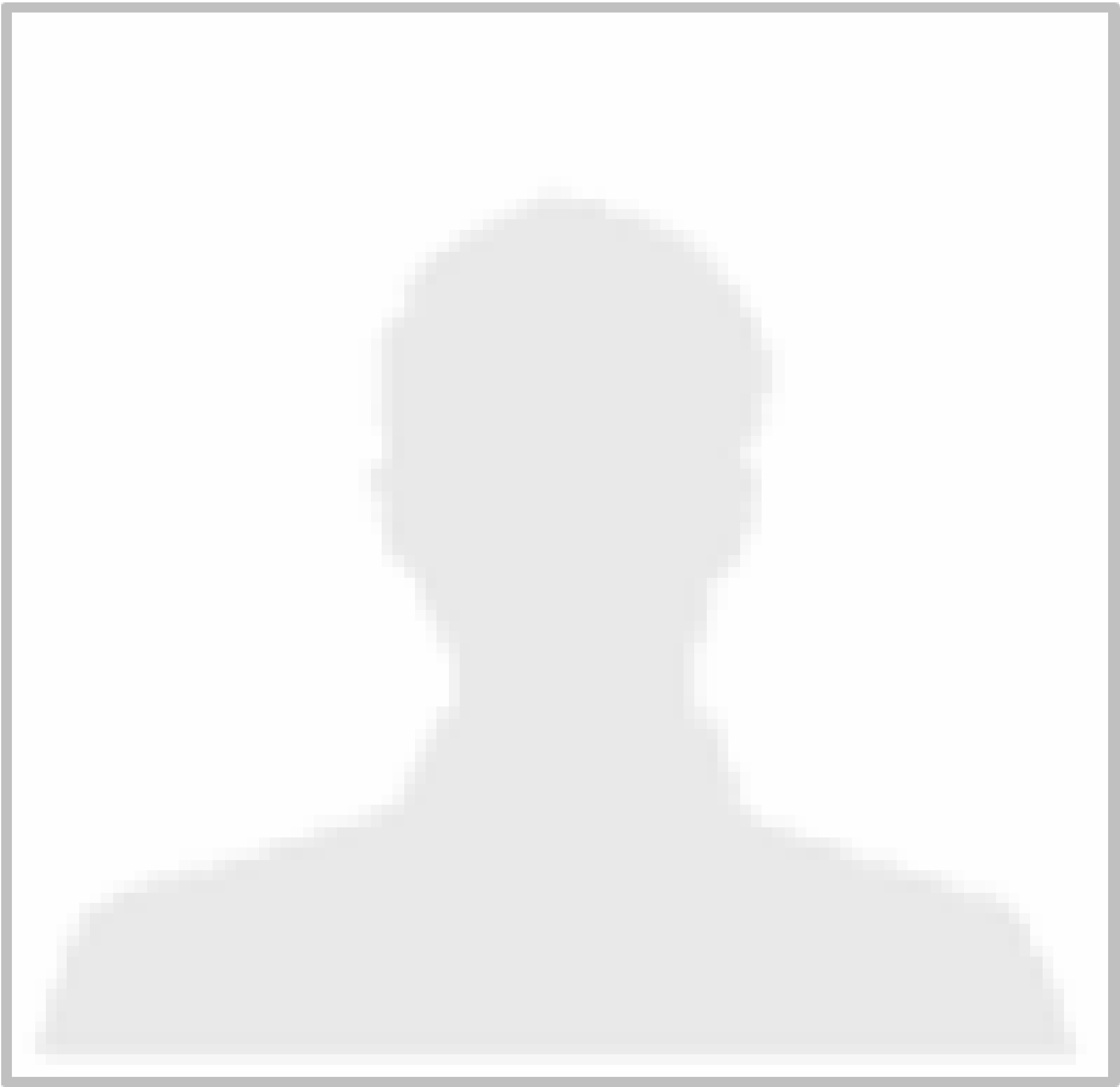
Editorial Board



Editor-in-Chief

Prof. Dr. Mostafa Bayoumi Abdul Salam

Faculty of Dar Al-Uloom – Minia University, Egypt
mostafa.bayoumie@mu.edu.eg



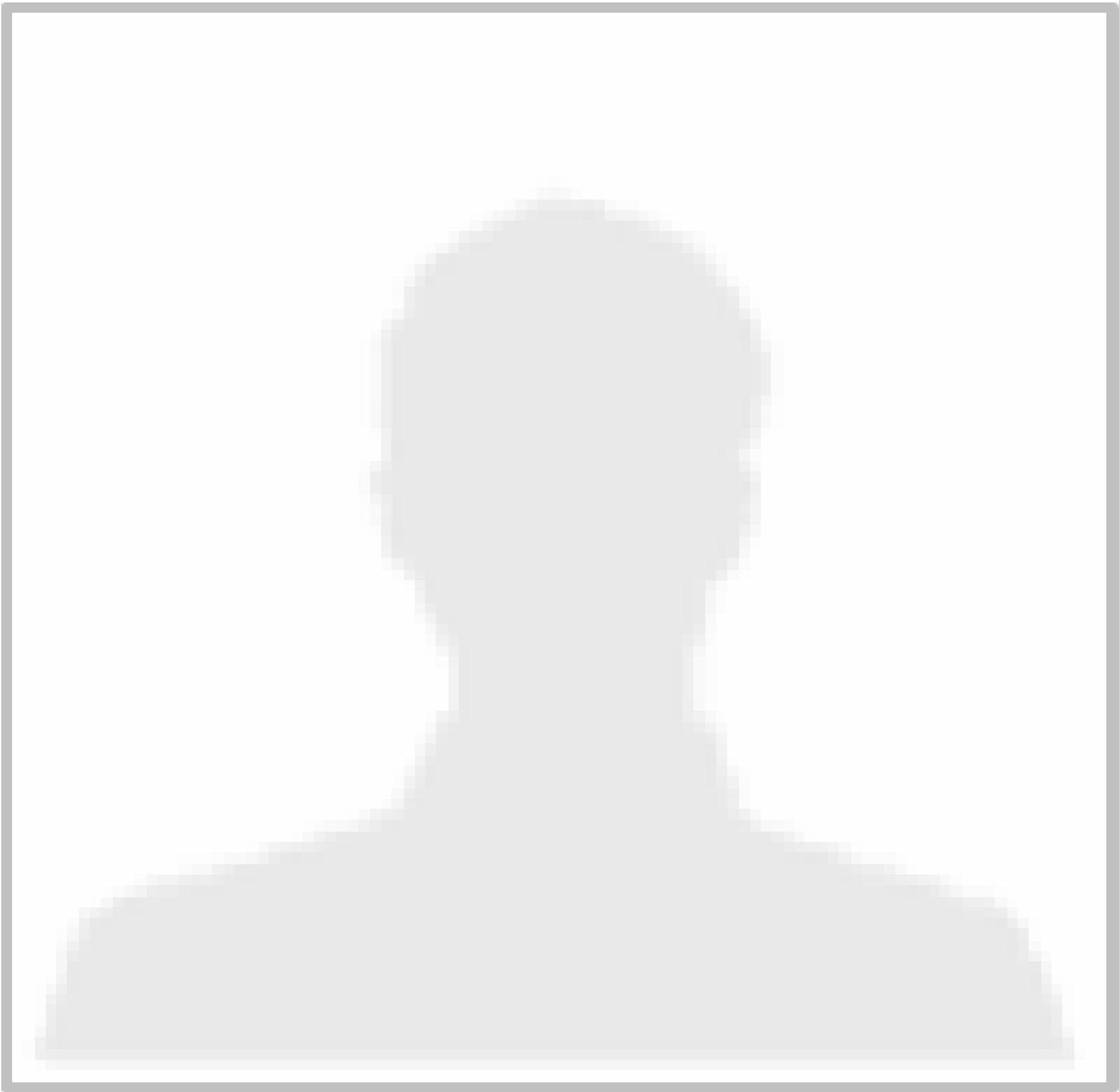
Executive Team

Prof. Dr. Ashraf Samir Tawfiq Muhamma

d

History and Islamic Civilization

Faculty of Dar Al-Uloom – Minia University, Egypt
dr.ashrafsameer1970@gmail.com

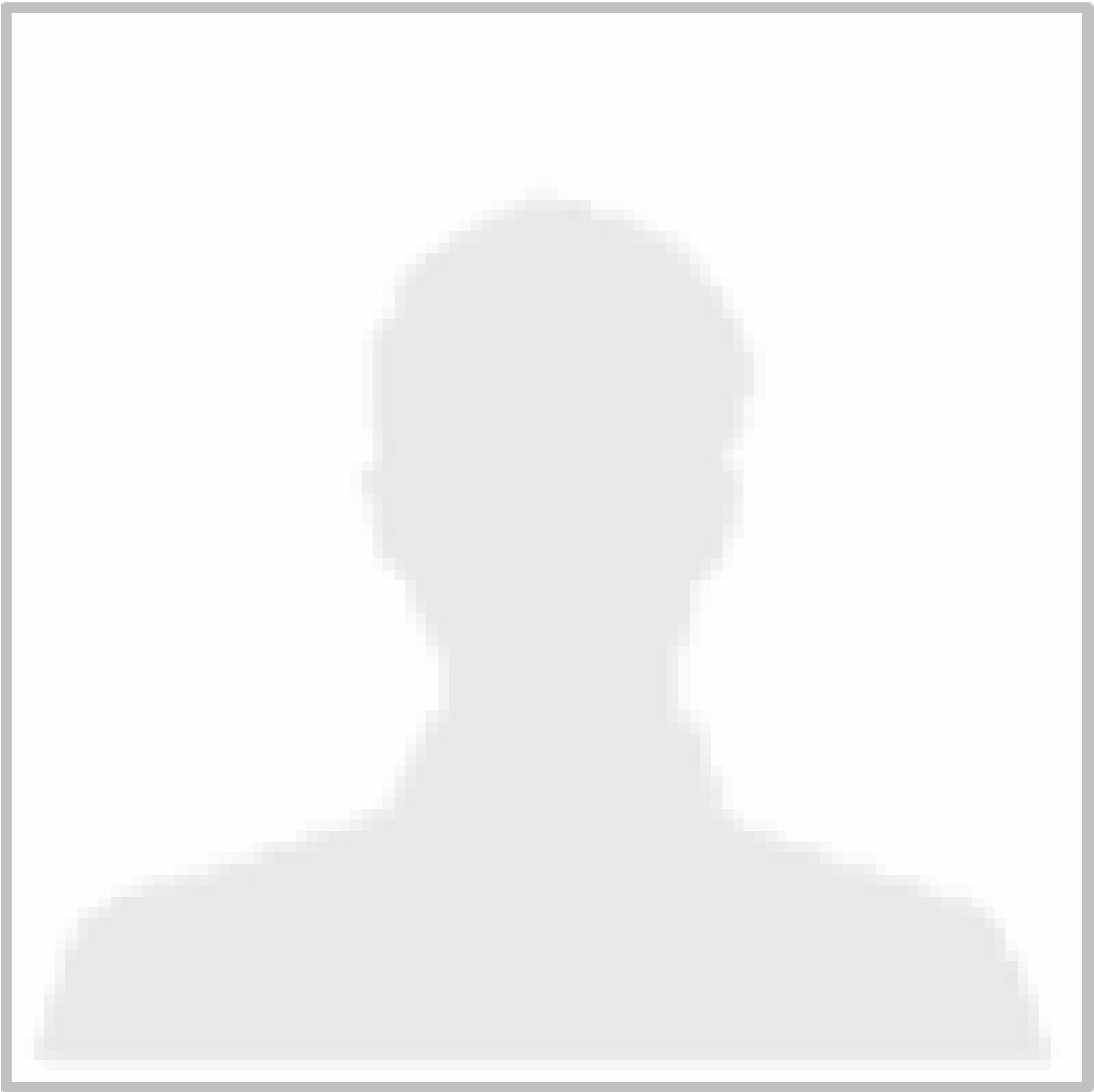


Advisory Board Members

Prof. Dr. Neama Morsi

Islamic History

Al-Quds Open University – Palestine – Jerusalem, West Bank
dr.neama2010@yahoo.com

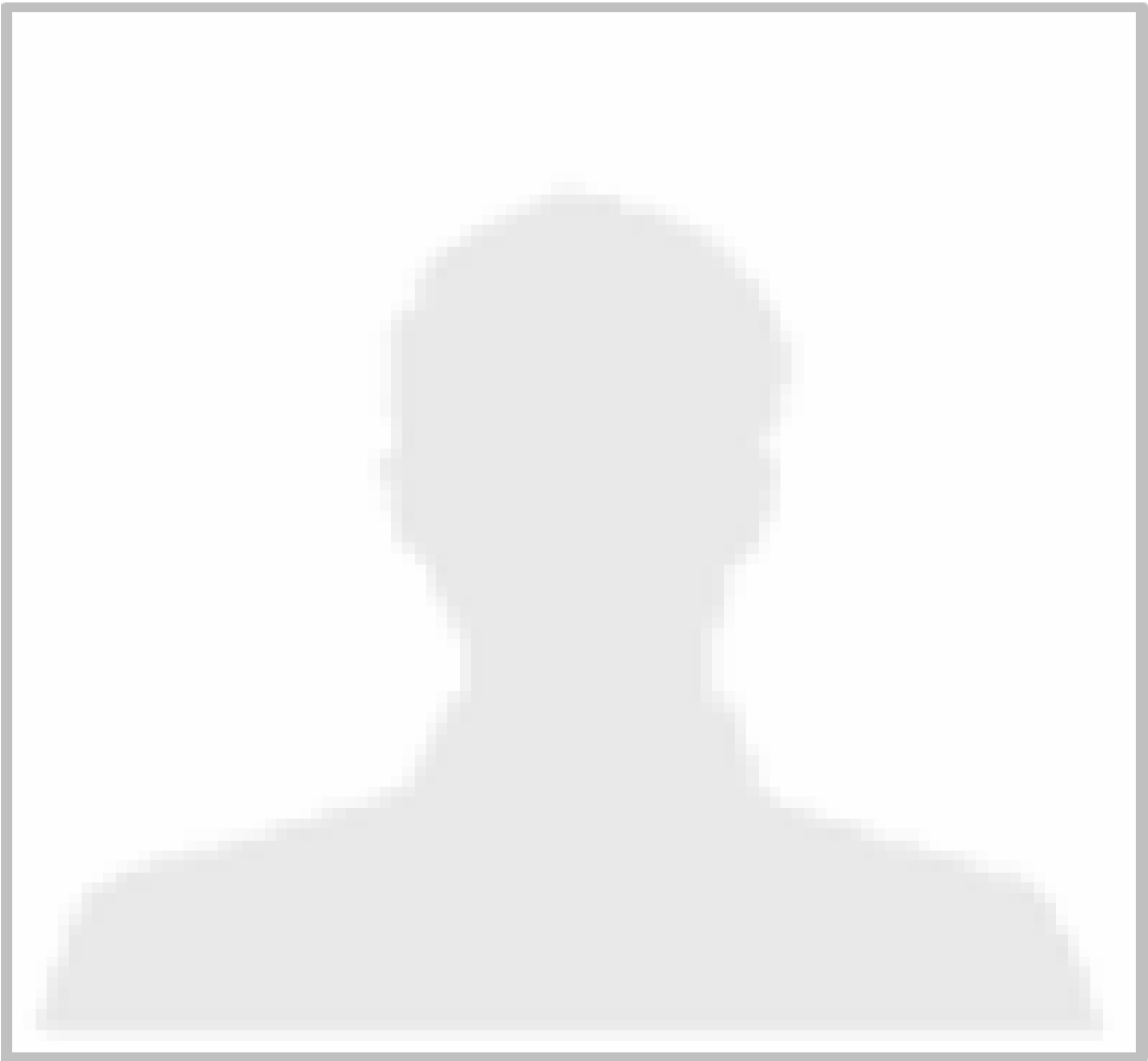


Advisory Board Members

Prof. Dr. Al-Sayed Abdul Wahab

Islamic Philosophy

Faculty of Arts – Minia University – Egypt
elsayedmoh896@yahoo.com

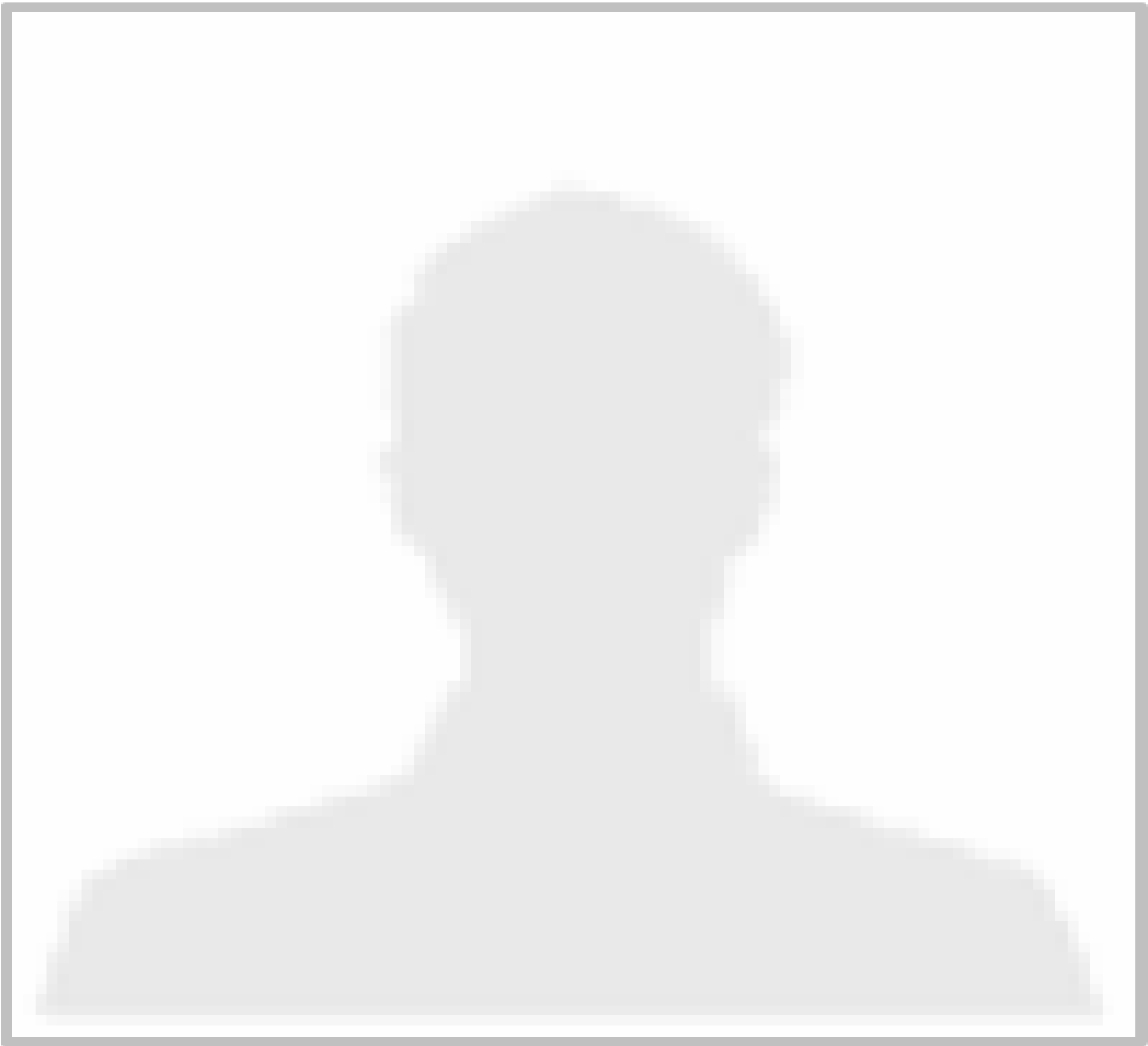


Advisory Board Members

Prof. Dr. Muhammad Al-Rehani

Grammar

Faculty of Arts – Minia University – Egypt
ayamer.cu@gmail.com

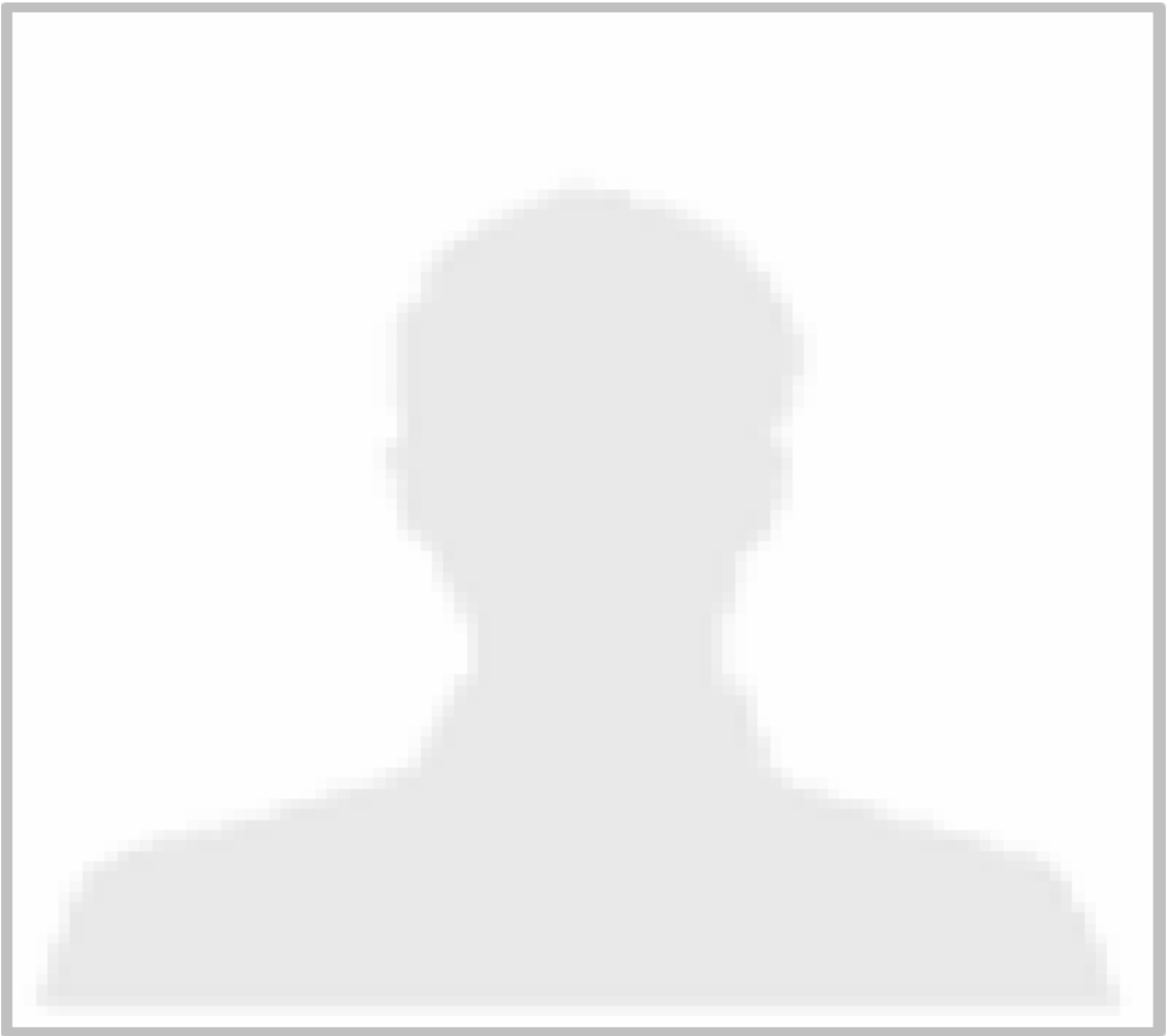


Advisory Board Members

Prof. Dr. Muhammad Abdul Radi

Islamic Philosophy

Faculty of Arts – Cairo University – Egypt
rady61@hotmail.com

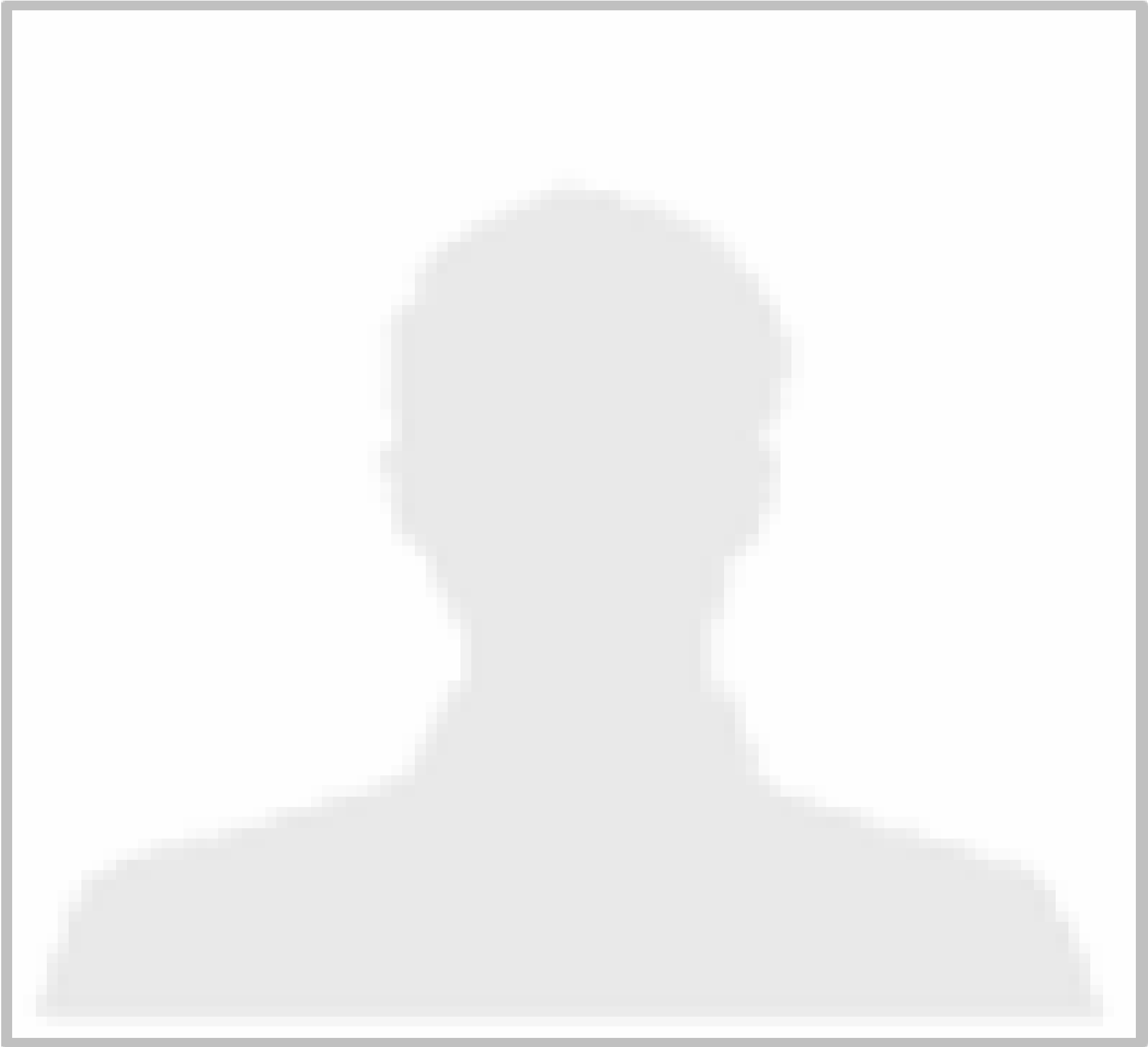


Advisory Board Members

Prof. Dr. El-Sayed Mehoub

Islamic Philosophy

Faculty of Arts – Minia University – Egypt
sayed_mahyoup@yahoo.com

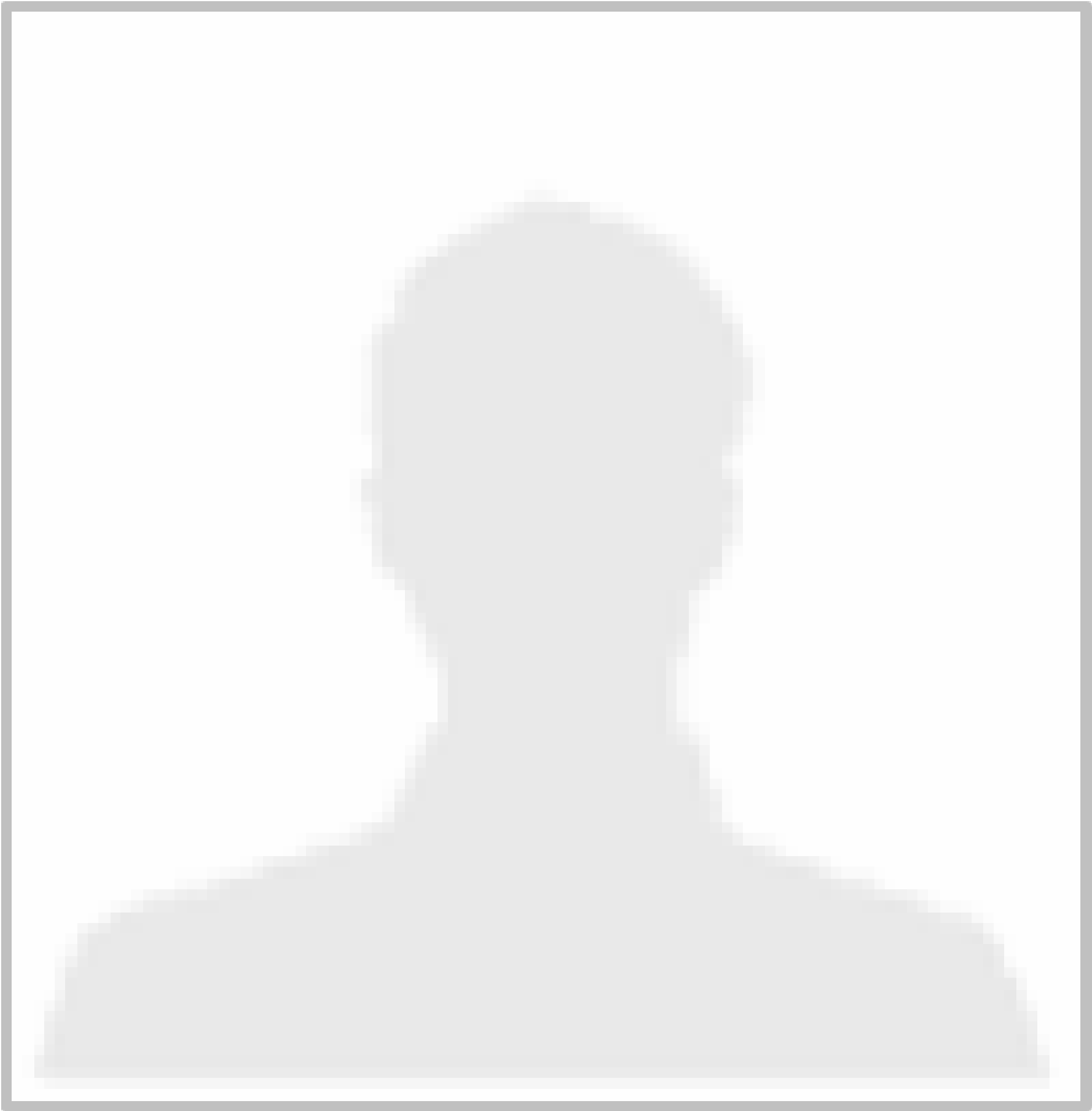


Advisory Board Members

Prof. Dr. Muhammad El-Gendy

Islamic Philosophy

Faculty of Arts – Minia University – Egypt
mohamed.elgendy@mu.edu.eg

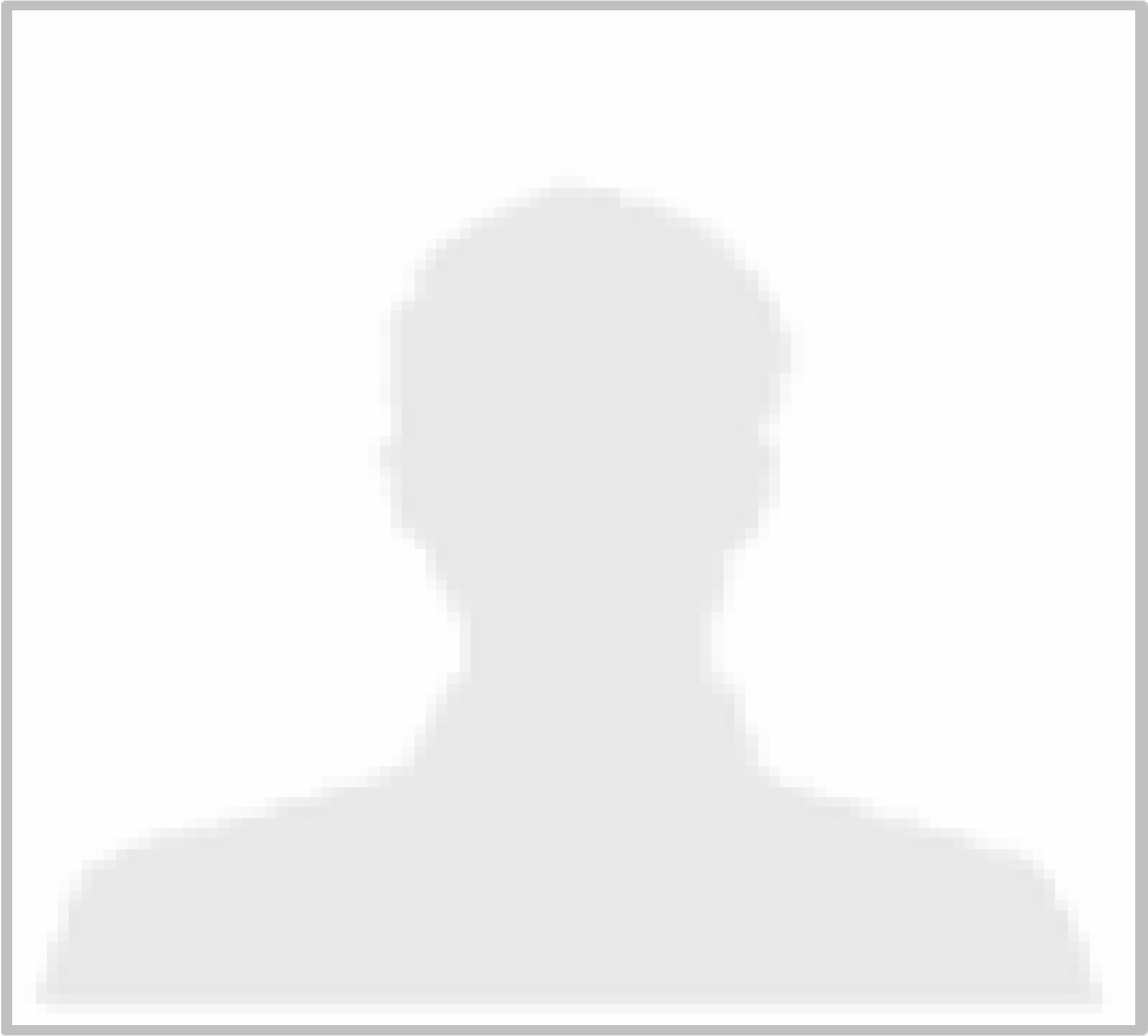


Advisory Board Members

Prof. Dr. Zaki Zaki

Sharia

Faculty of Sharia and Law – Kafrelsheikh University – Egypt
zakyy2000@hotmail.com

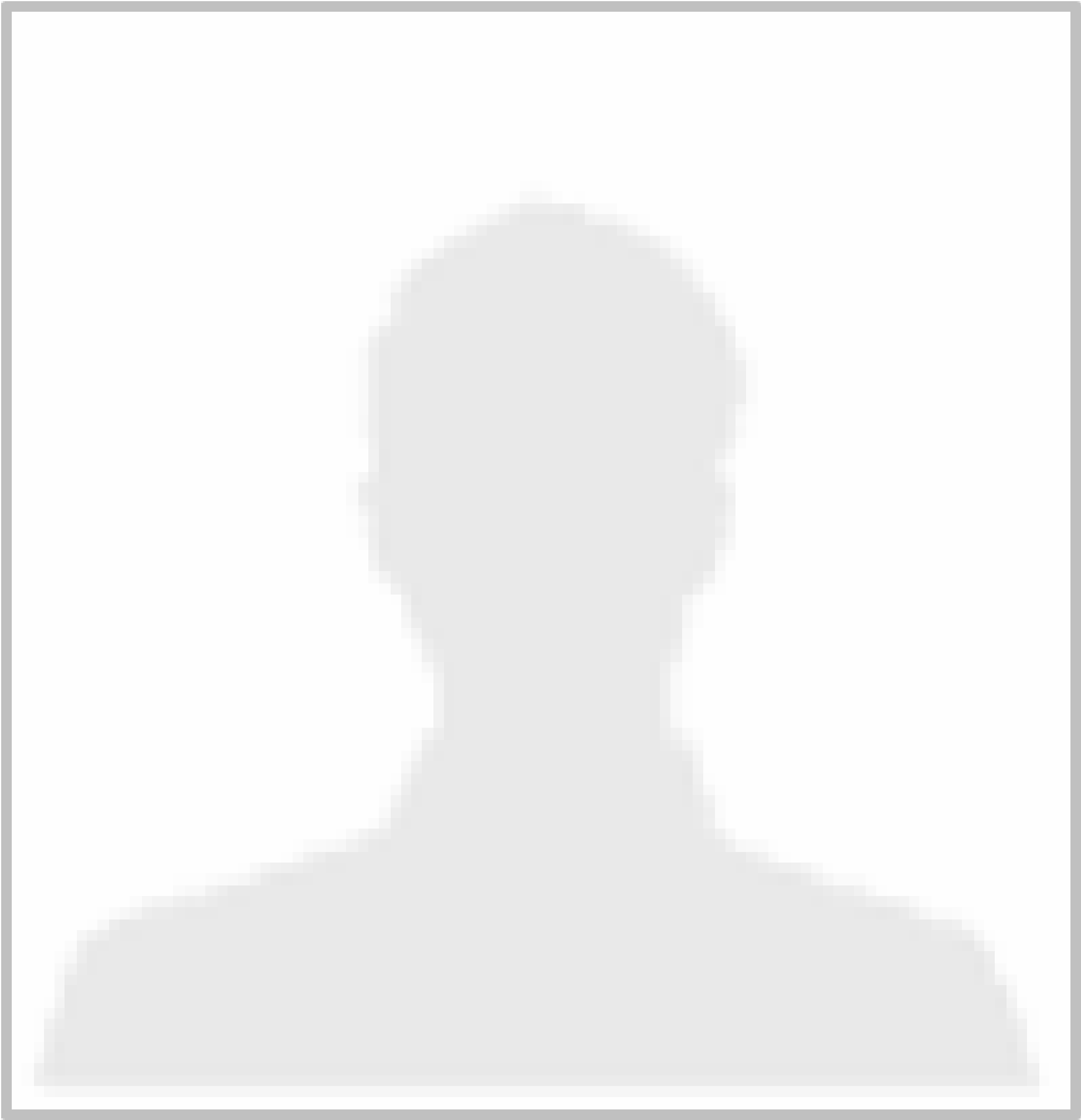


Advisory Board Members

Prof. Dr. Ibrahim Muhammad

Sharia

Faculty of Sharia – Al-Azhar University – Cairo – Egypt
imadelrehime@hotmail.com

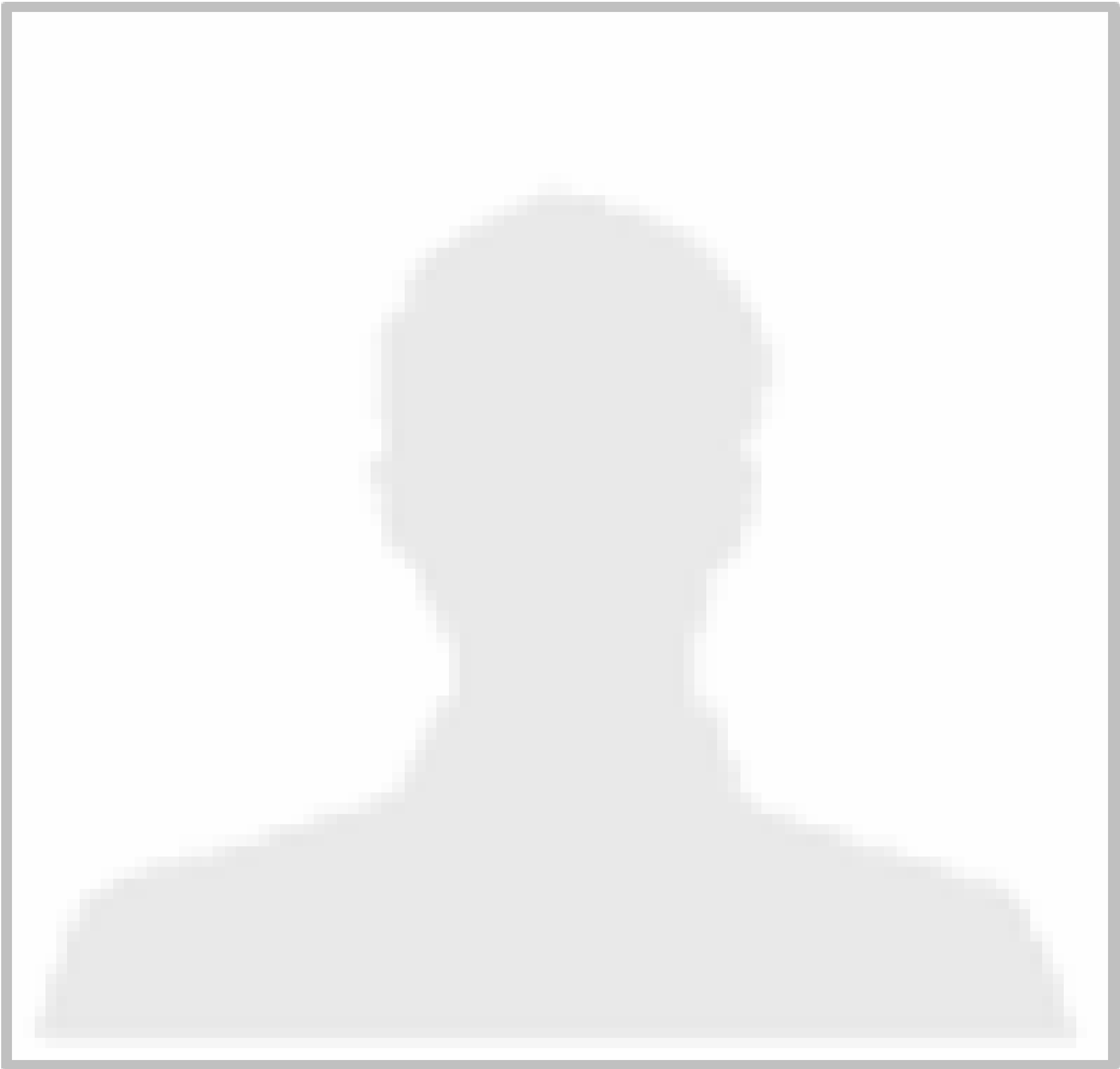


Advisory Board Members

Prof. Dr. Zaher Fouad

Sharia

Faculty of Sharia – Minia University – Egypt
zaherfouad72@yahoo.com

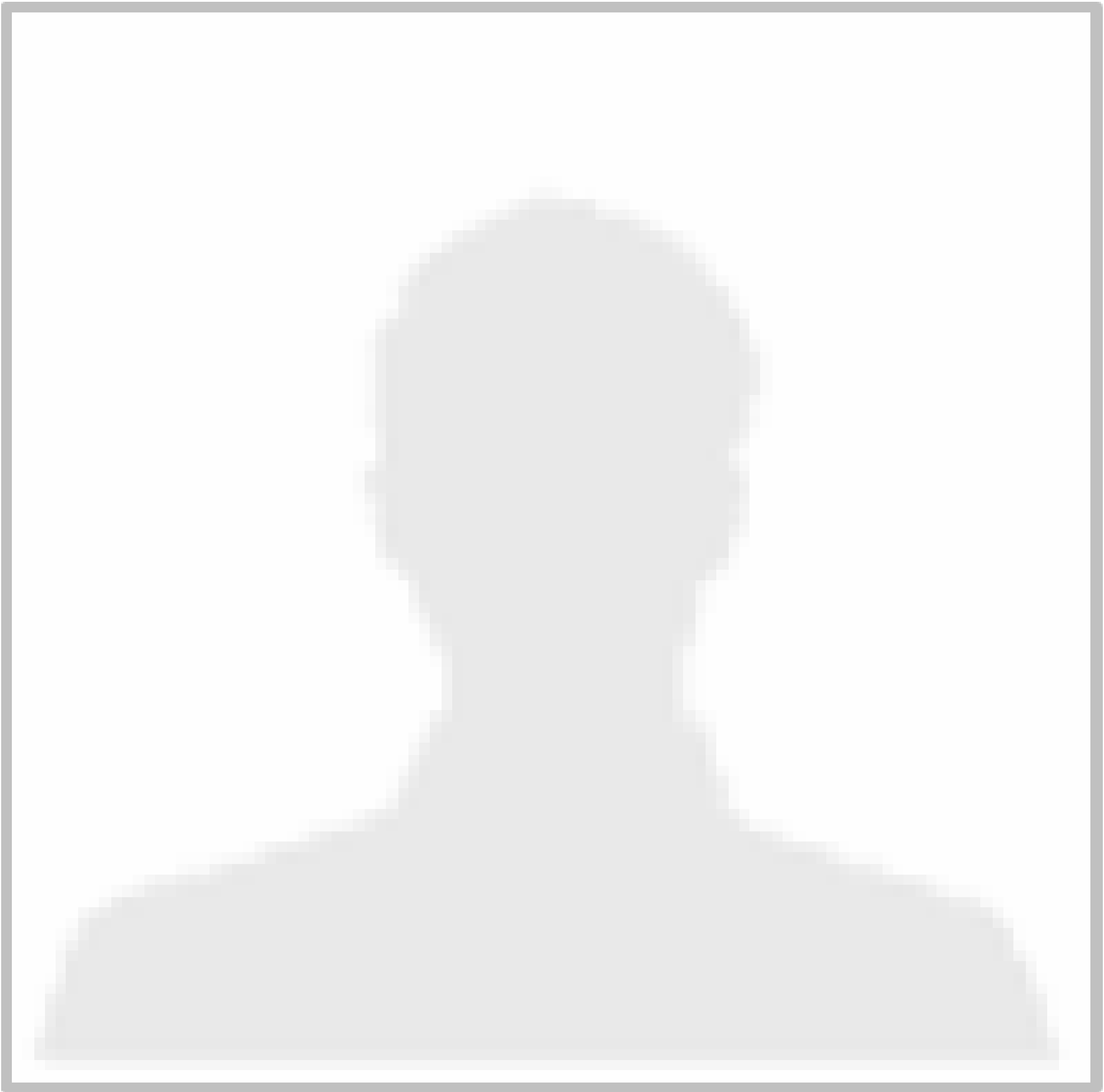


Advisory Board Members

Prof. Dr. Mourad Abdul Rahman

Grammar and Morphology

Faculty of Arts – Minia University – Egypt
dr.mmabruk@hotmail.com

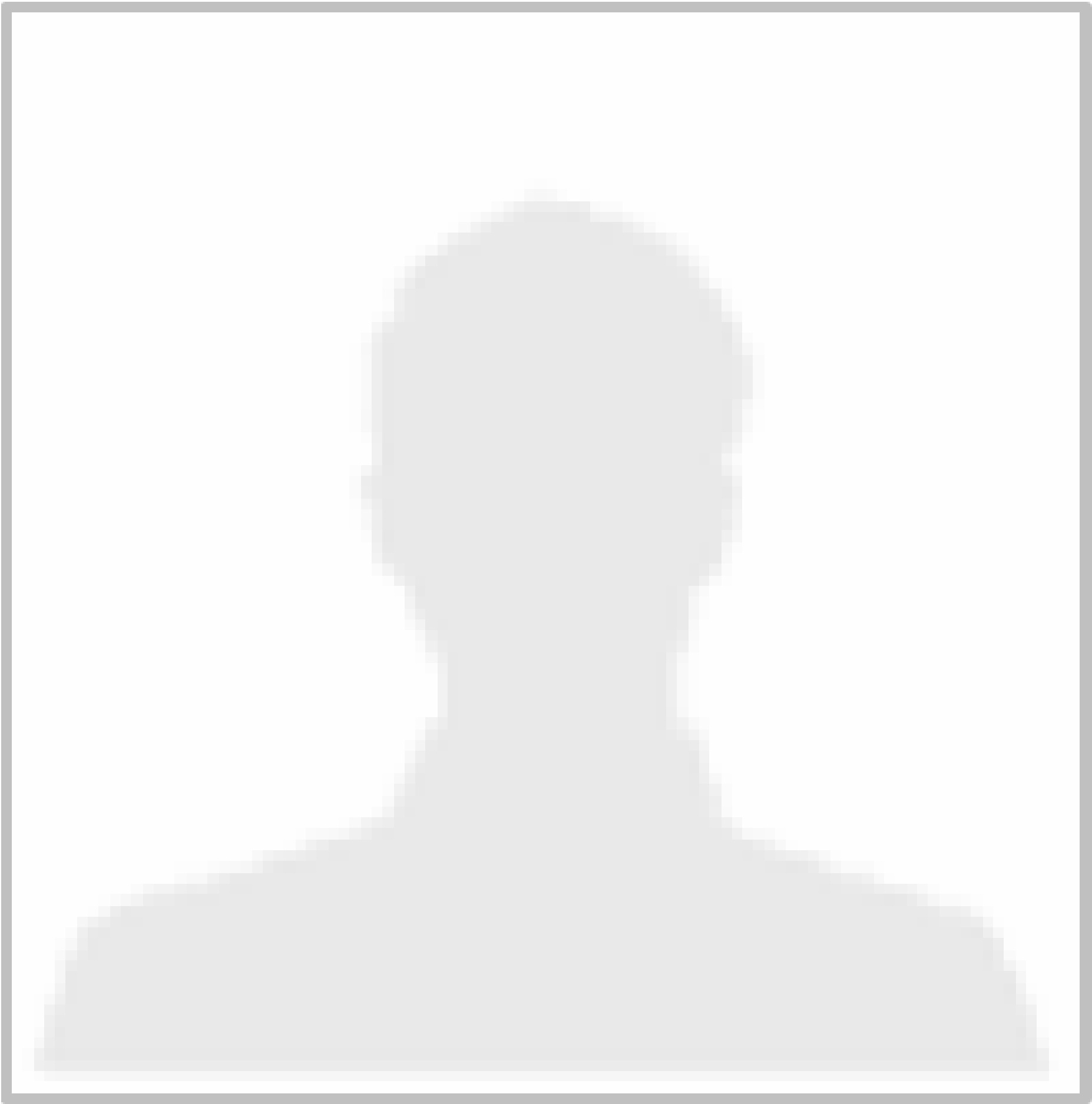


Advisory Board Members

Prof. Dr. Atif Abdul Aziz

Grammar and Morphology

Faculty of Arts – New Valley University – Egypt
dr.1234567@hotmail.com

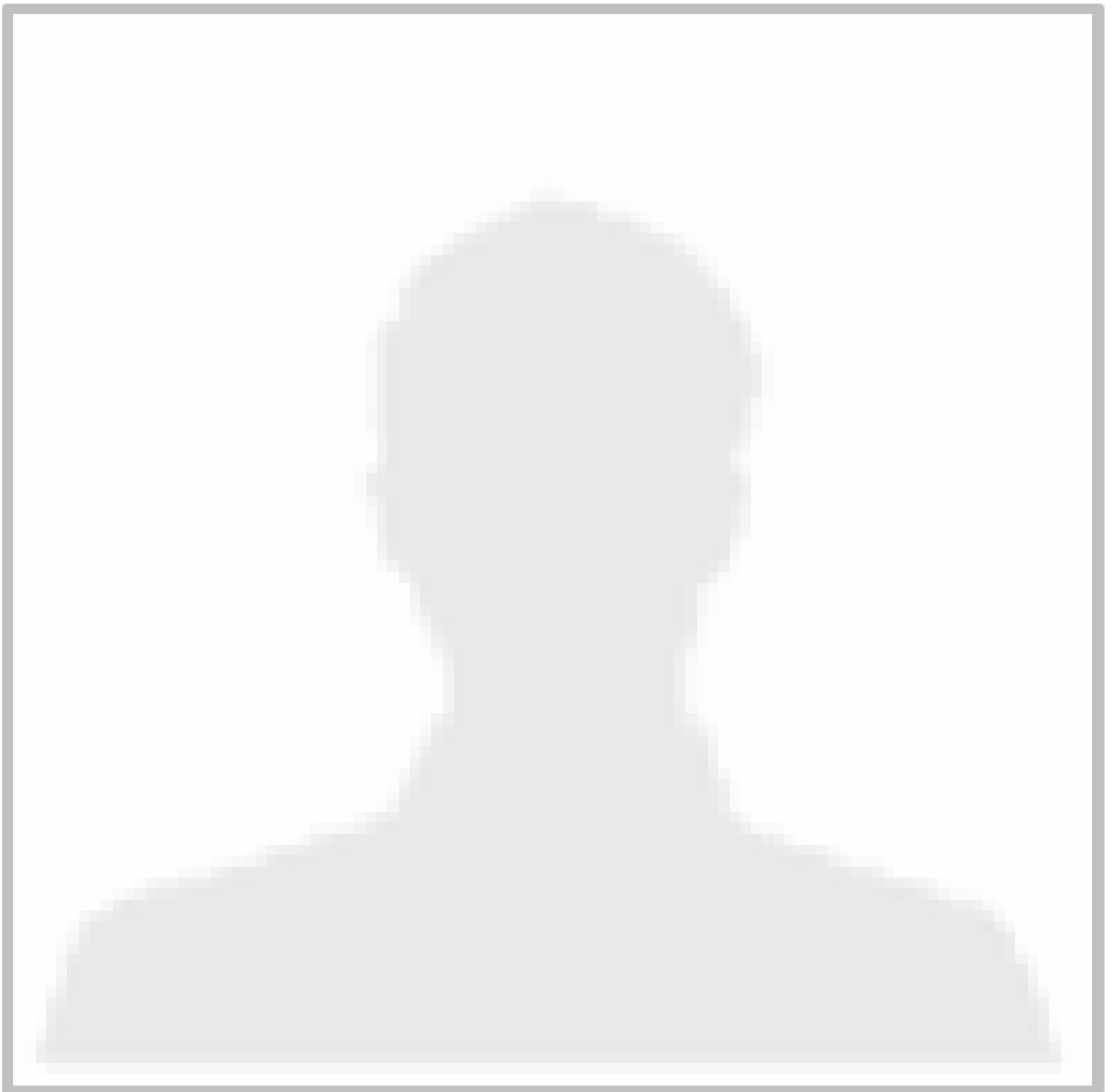


Advisory Board Members

Prof. Dr. Ayman Fathy

Sharia

Faculty of Sharia – Assiut University – Egypt
shaaban_gaballa@hotmail.com

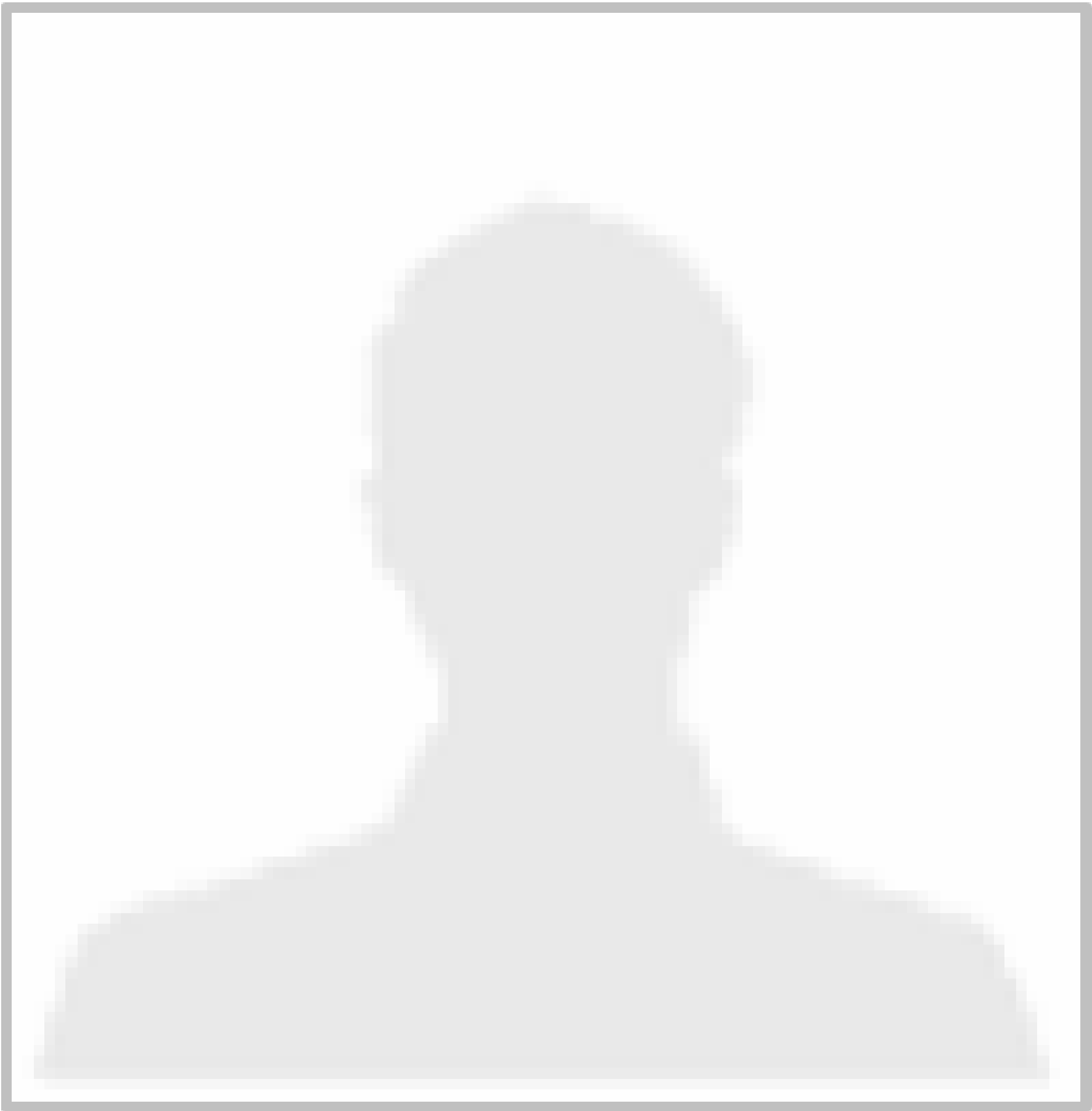


Advisory Board Members

Prof. Dr. Muhammad Al-Safrani

Literature and Criticism

Faculty of Arts – Taibah University – Medina – Saudi Arabia
m_alsafarani@hotmail.com



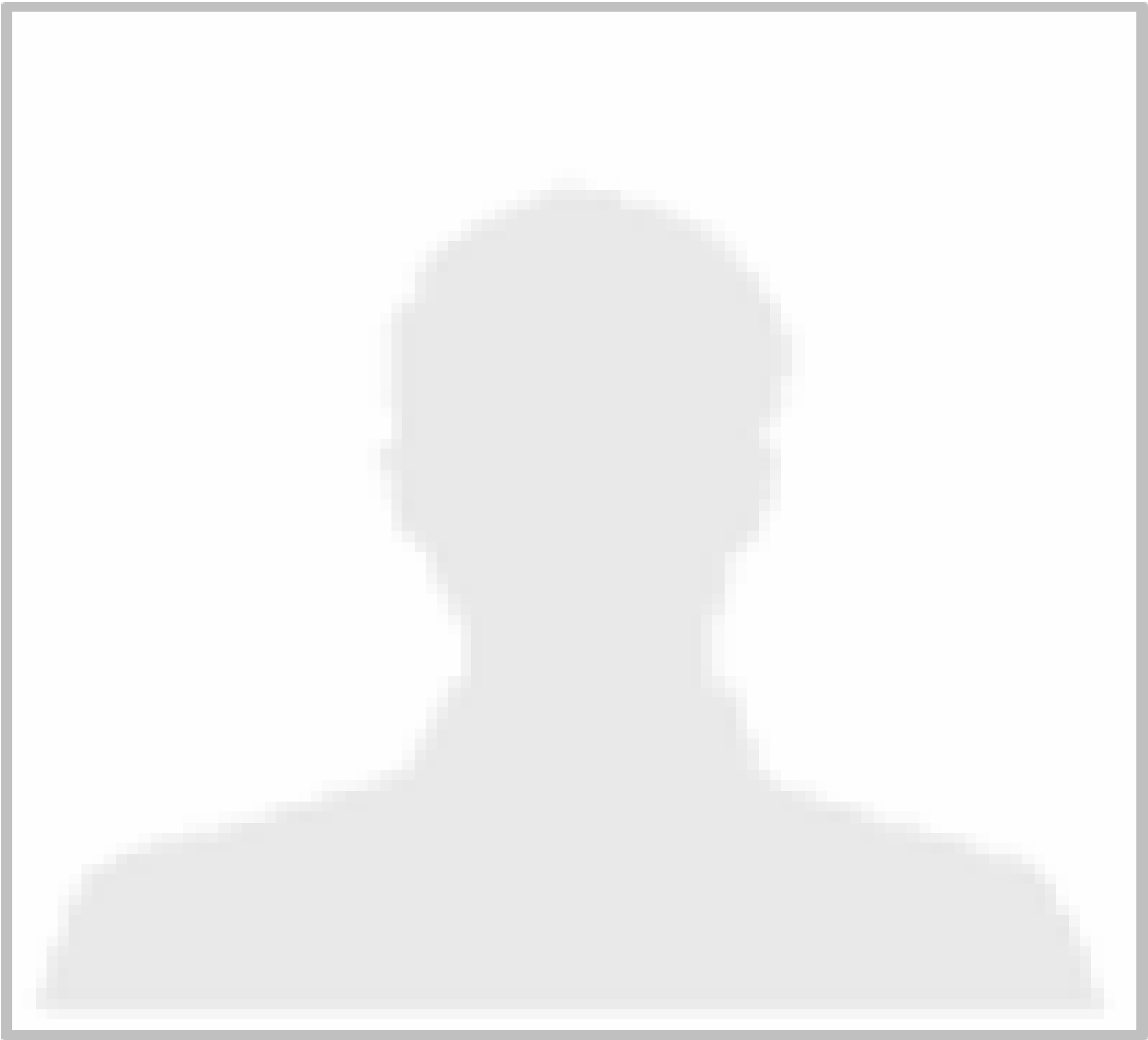
Advisory Board Members

Prof. Dr. Abdulaziz Al-Sunaidi

Islamic History

Faculty of Arts and Humanities – Qassim University – Saudi Arabia
aas1331@hotmail.com

<https://dram.journals.ekb.eg/journal/editorial.board>

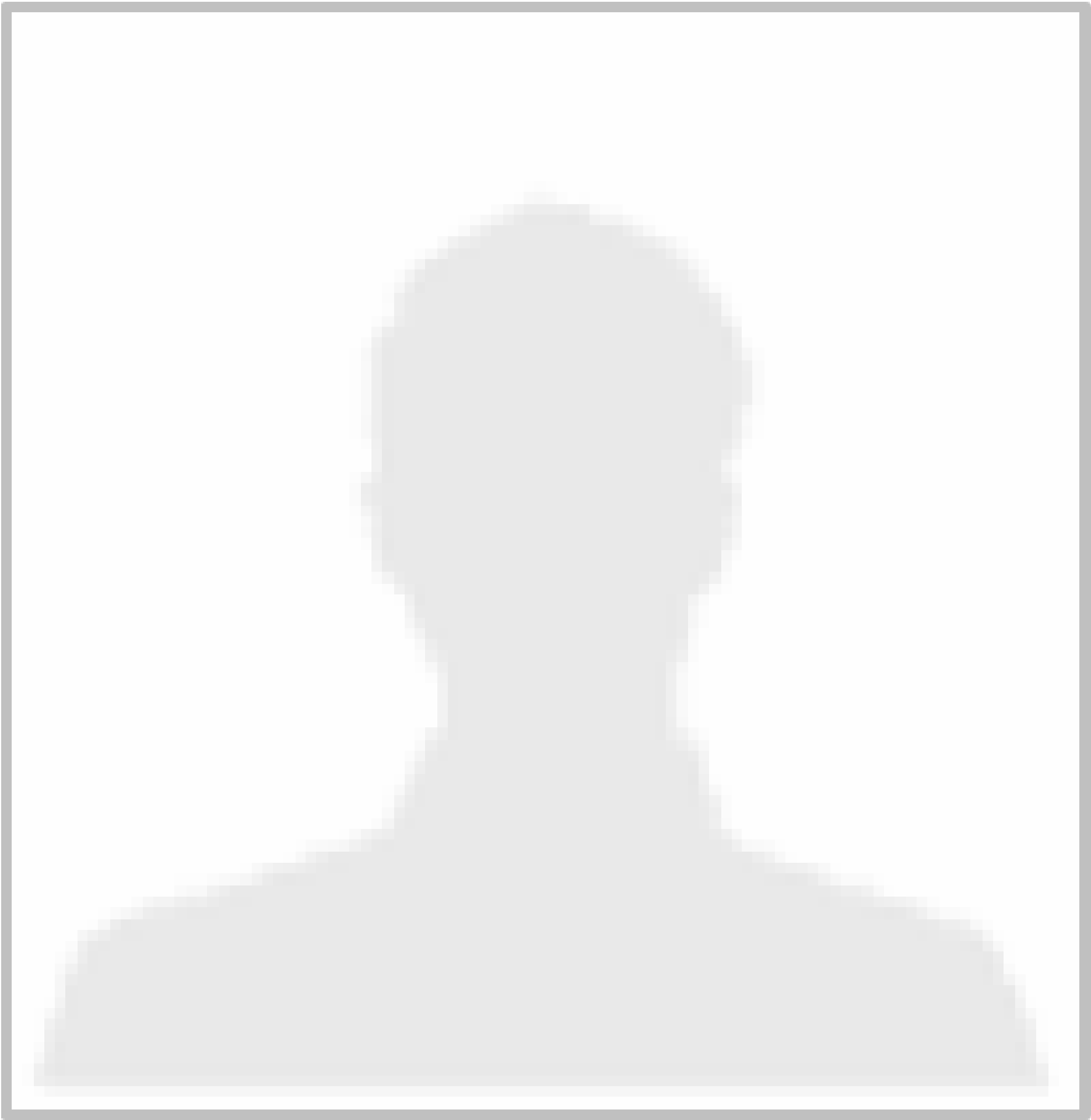


Advisory Board Members

Prof. Dr. Abdul Majeed Al-Darwish

Comparative Jurisprudence

Faculty of Arts – King Saud University – Saudi Arabia
abdulmageed2005@yahoo.com

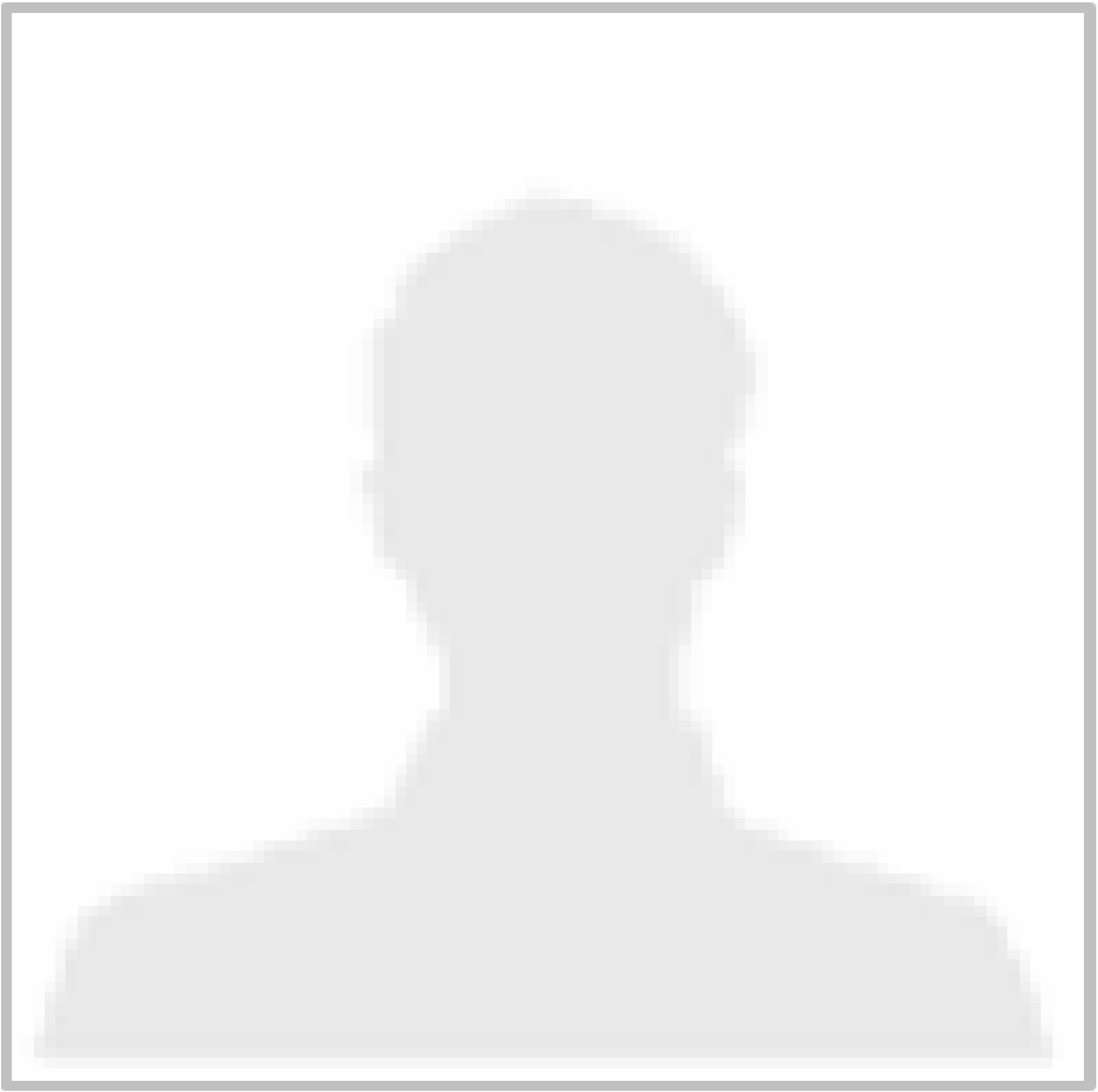


Advisory Board Members

Prof. Dr. Nasser Al-Maneea

Qur’anic Interpretation and Sciences of the Qur’an

Faculty of Arts – King Saud University – Saudi Arabia
d_naser22@hotmail.com

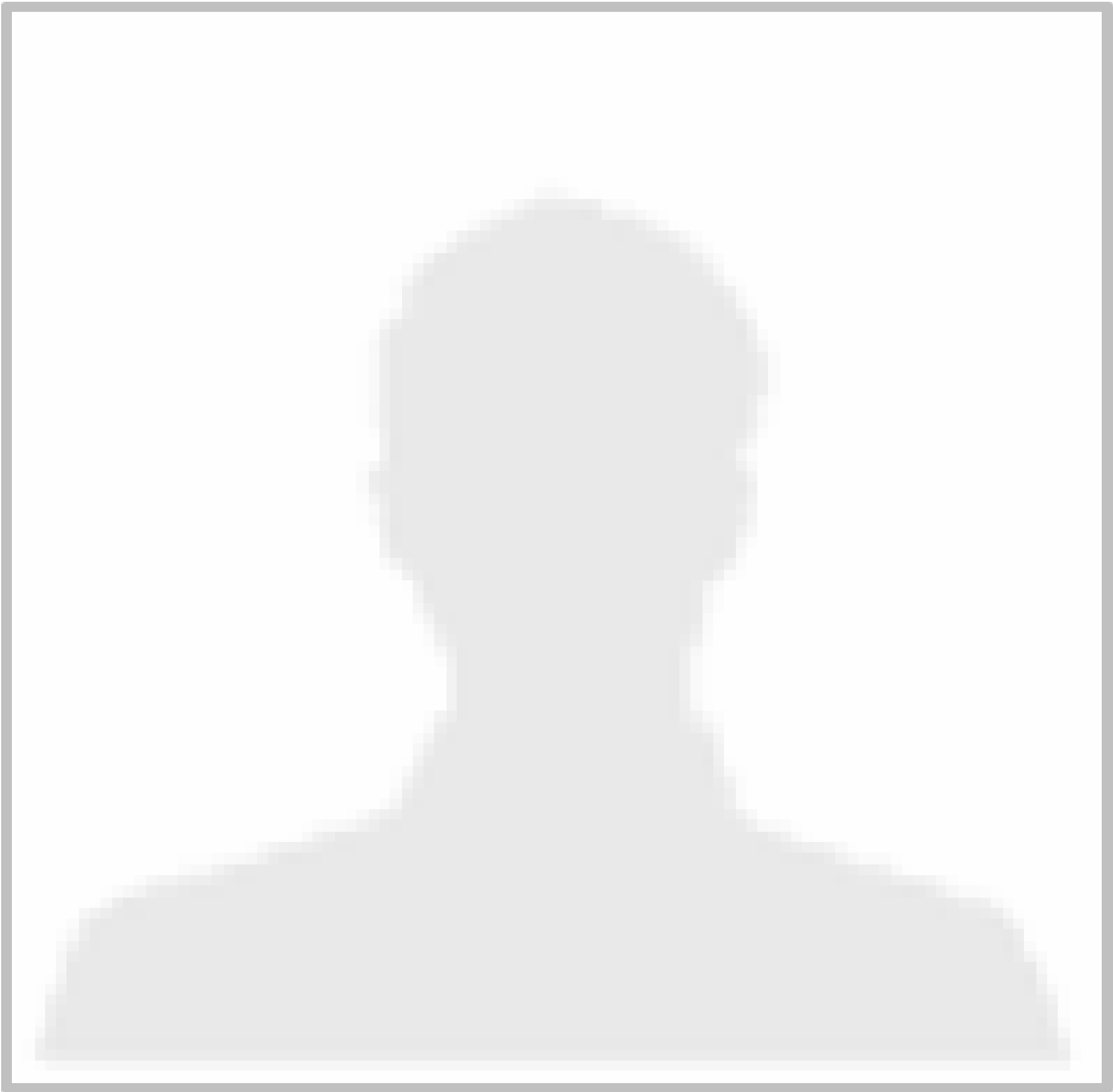


Advisory Board Members

Prof. Dr. Ali Al-Omirini

Principles of Jurisprudence

Faculty of Sharia – King Saud University – Saudi Arabia
sav0055@hotmail.com

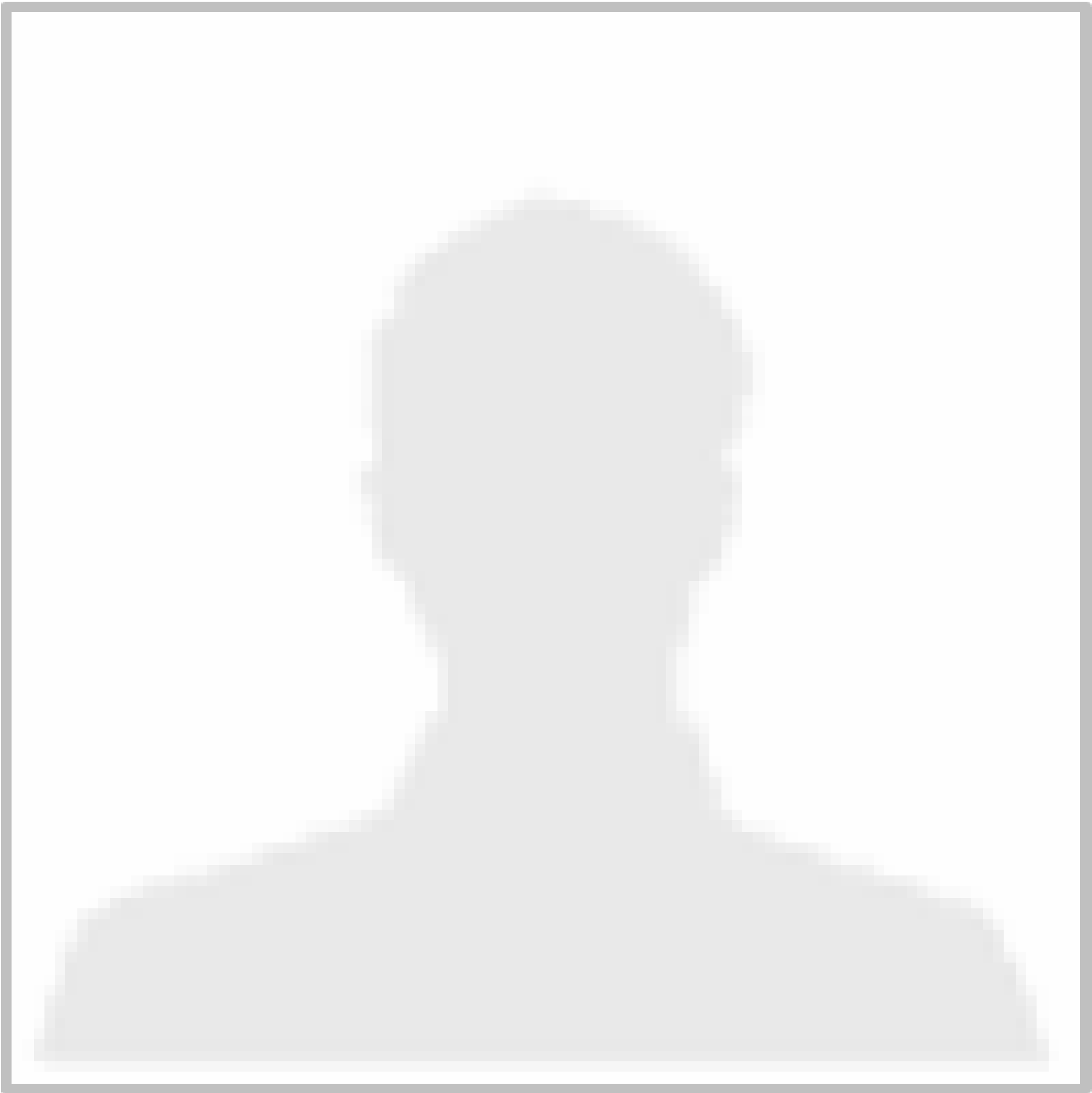


Advisory Board Members

Prof. Dr. El-Arabi El-Idrissi

Principles of Jurisprudence

Faculty of Sharia – King Saud University – Saudi Arabia
alaraby@ksa.edu.sa

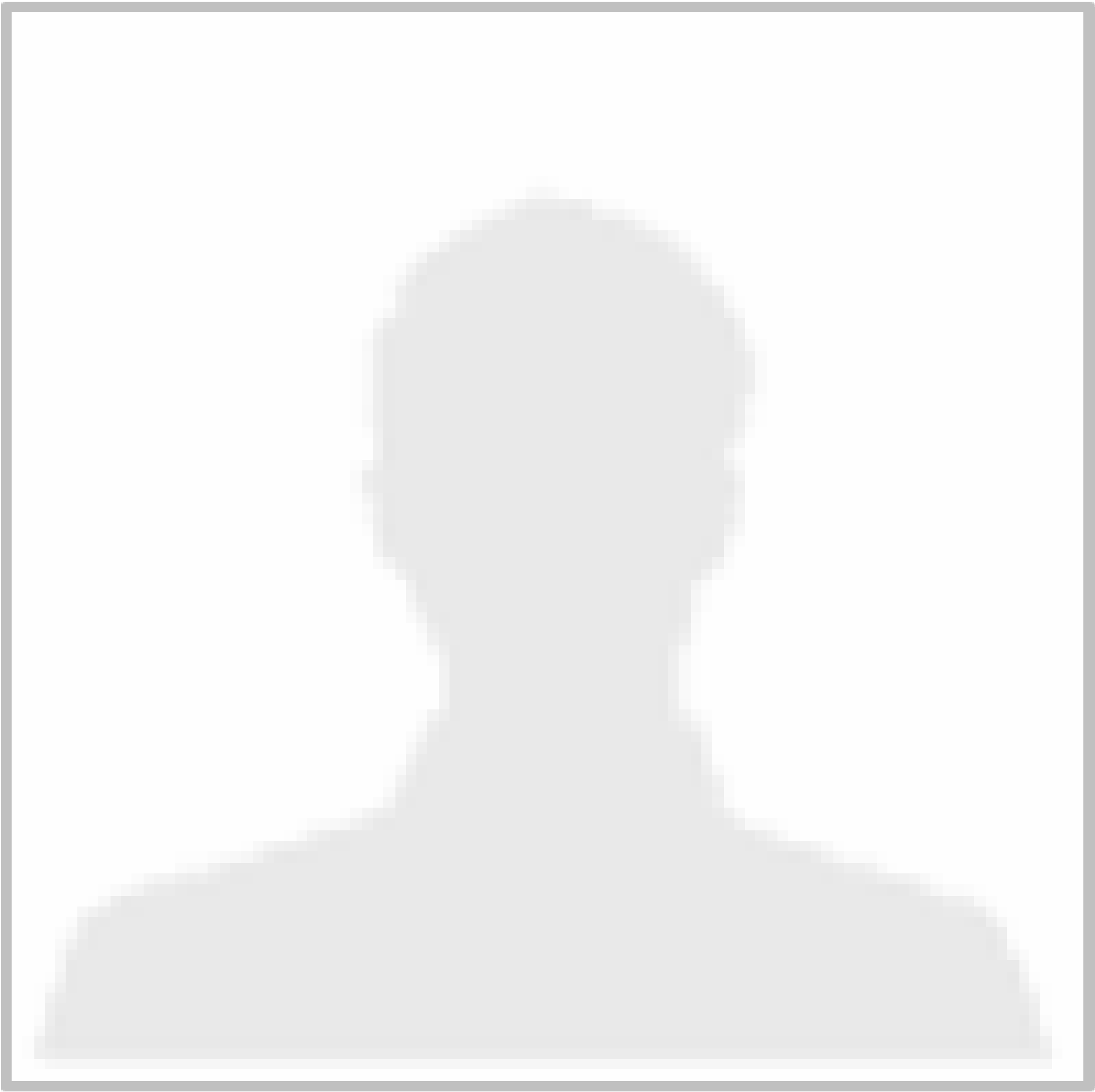


Advisory Board Members

Prof. Dr. Sultan Al-Tubayshi

Hadith

Faculty of Arts – King Saud University – Saudi Arabia
stf4242@hotmail.com

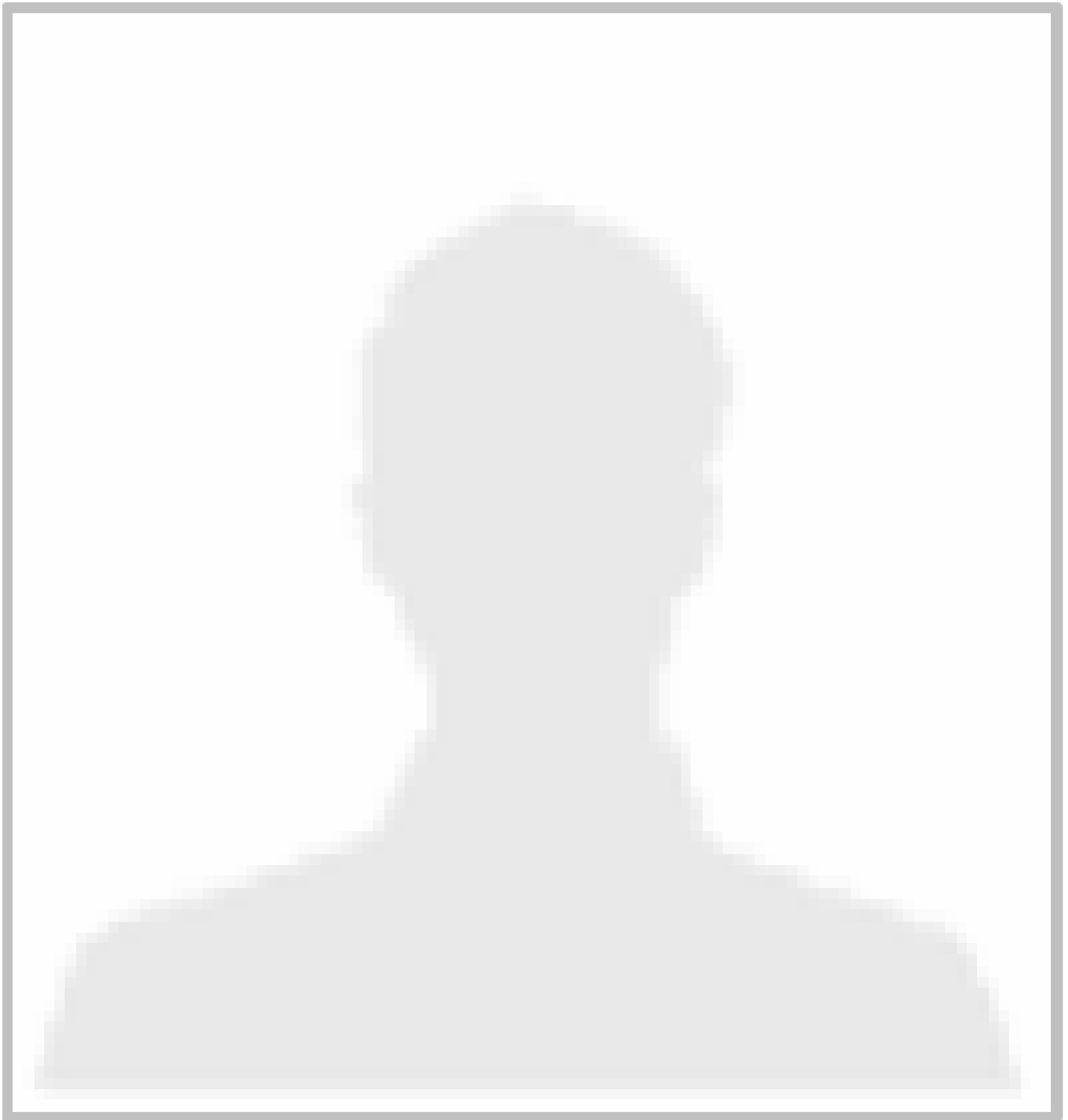


Advisory Board Members

Prof. Dr. Abdulaziz Al-Dhuwaihi

Principles of Jurisprudence

Faculty of Sharia and Fundamentals of Religion – King Saud University – Saudi Arabia
dasd1388@yahoo.com

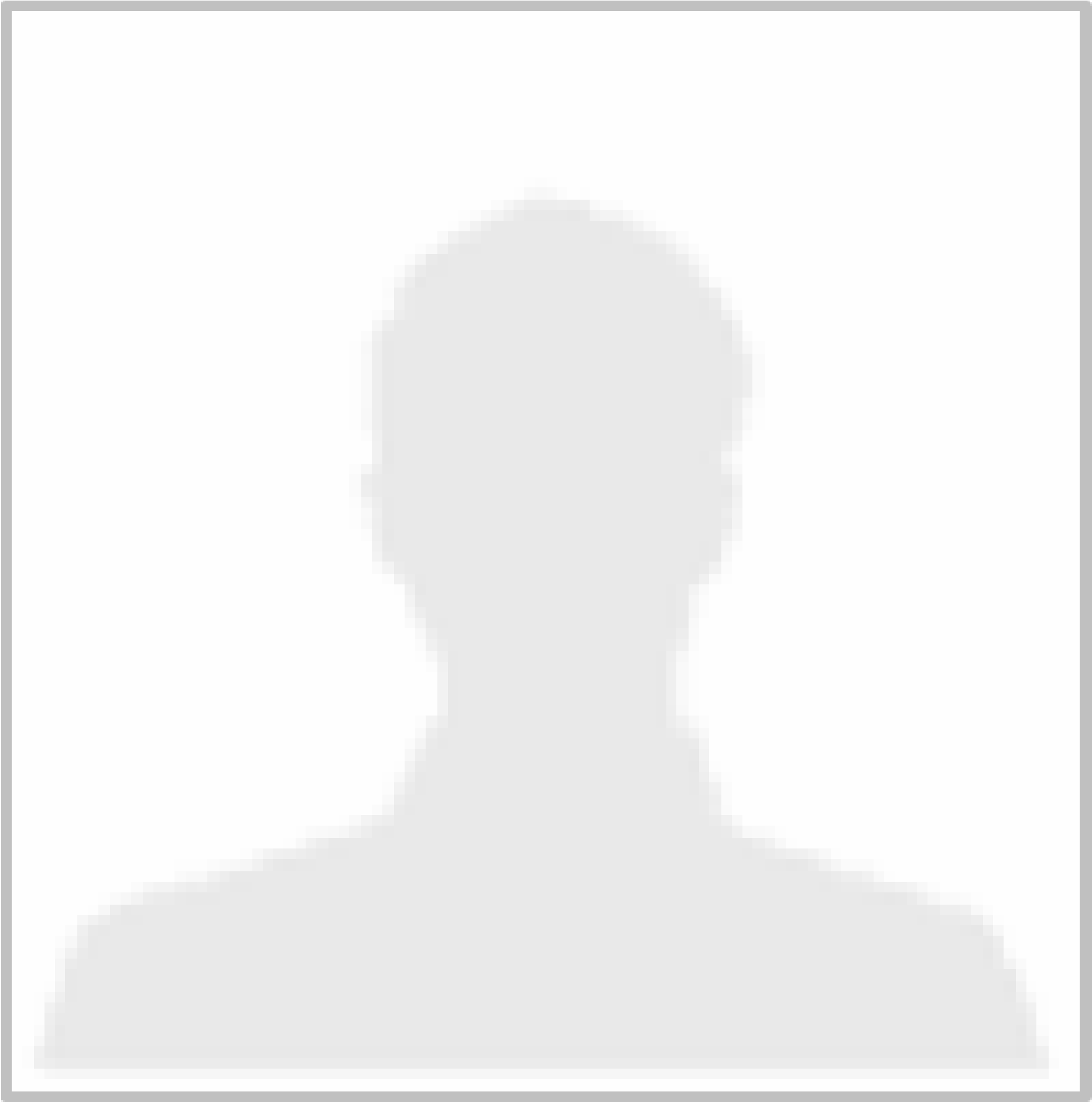


Advisory Board Members

Prof. Dr. Omar Al-Dehaishi

Principles of Jurisprudence

Faculty of Sharia – King Saud University – Saudi Arabia
nasr@ium.edu.my

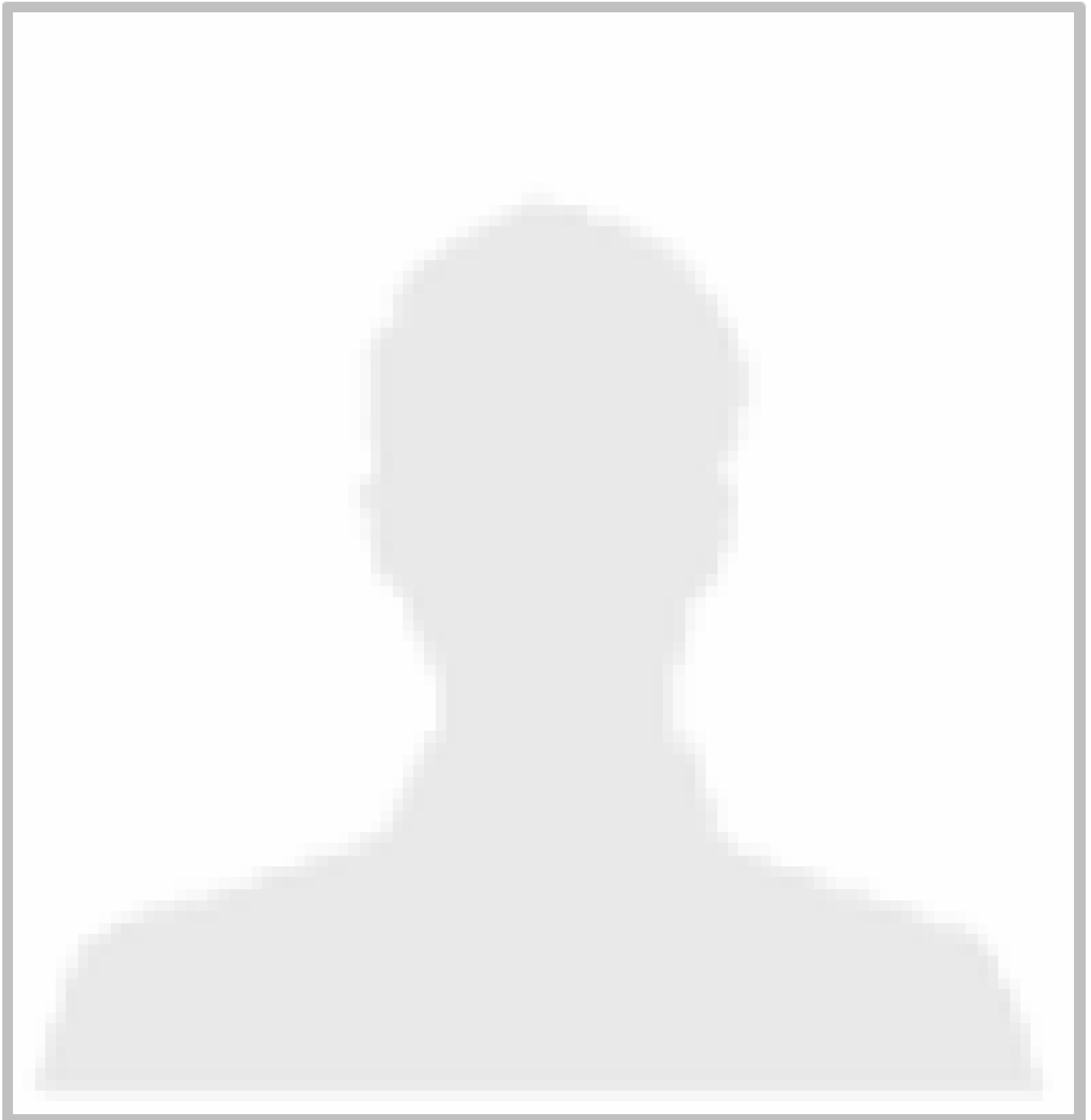


Advisory Board Members

Prof. Dr. Ahmad Al-Sagheer

Grammar and Morphology

Faculty of Arts – Minia University – Egypt
hamadsagier@yahoo.com

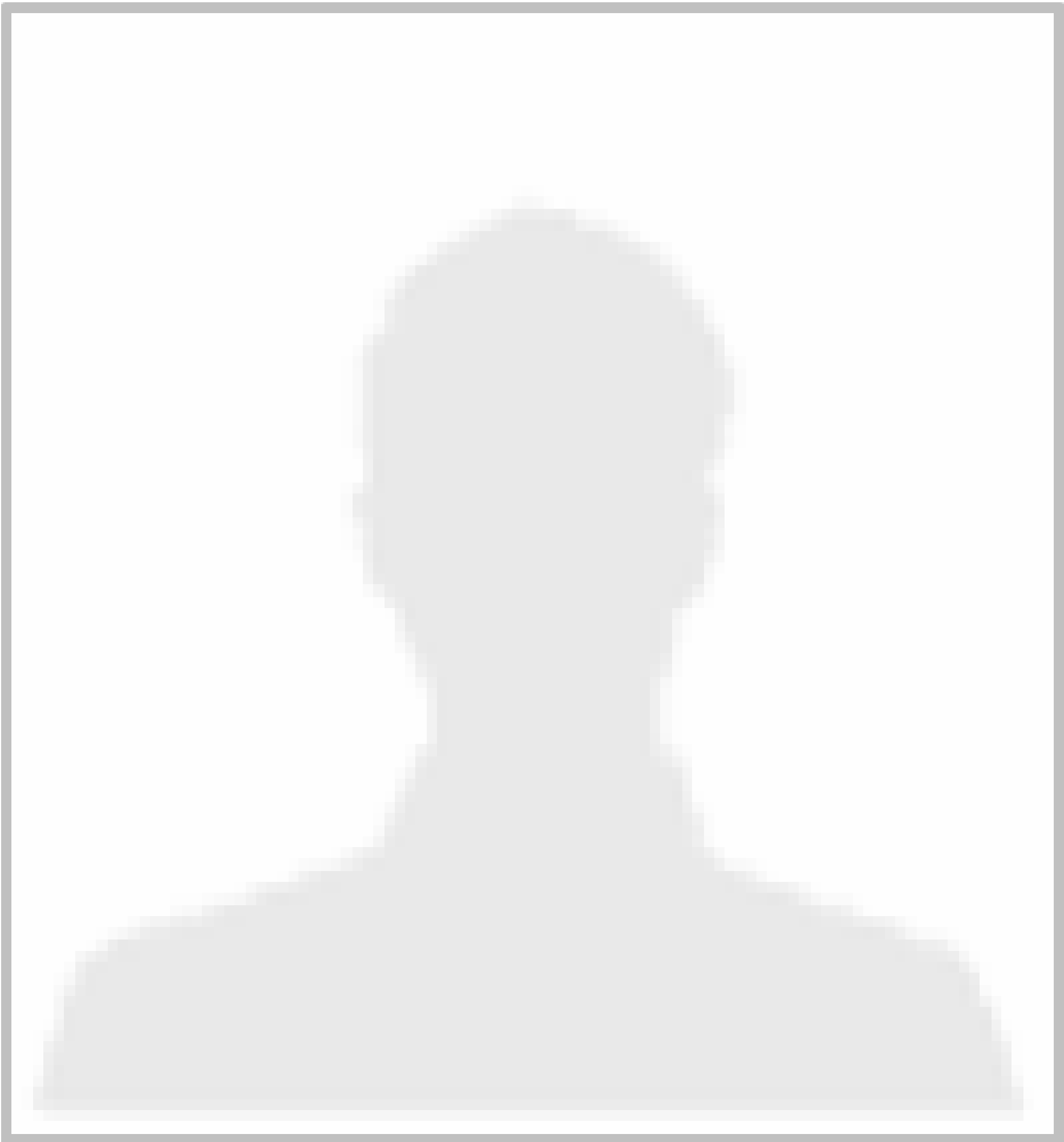


Advisory Board Members

Prof. Dr. Rajab Solaiman

Grammar and Morphology

Faculty of Arts – Minia University – Egypt
ragab.soliman1@mu.edu.eg

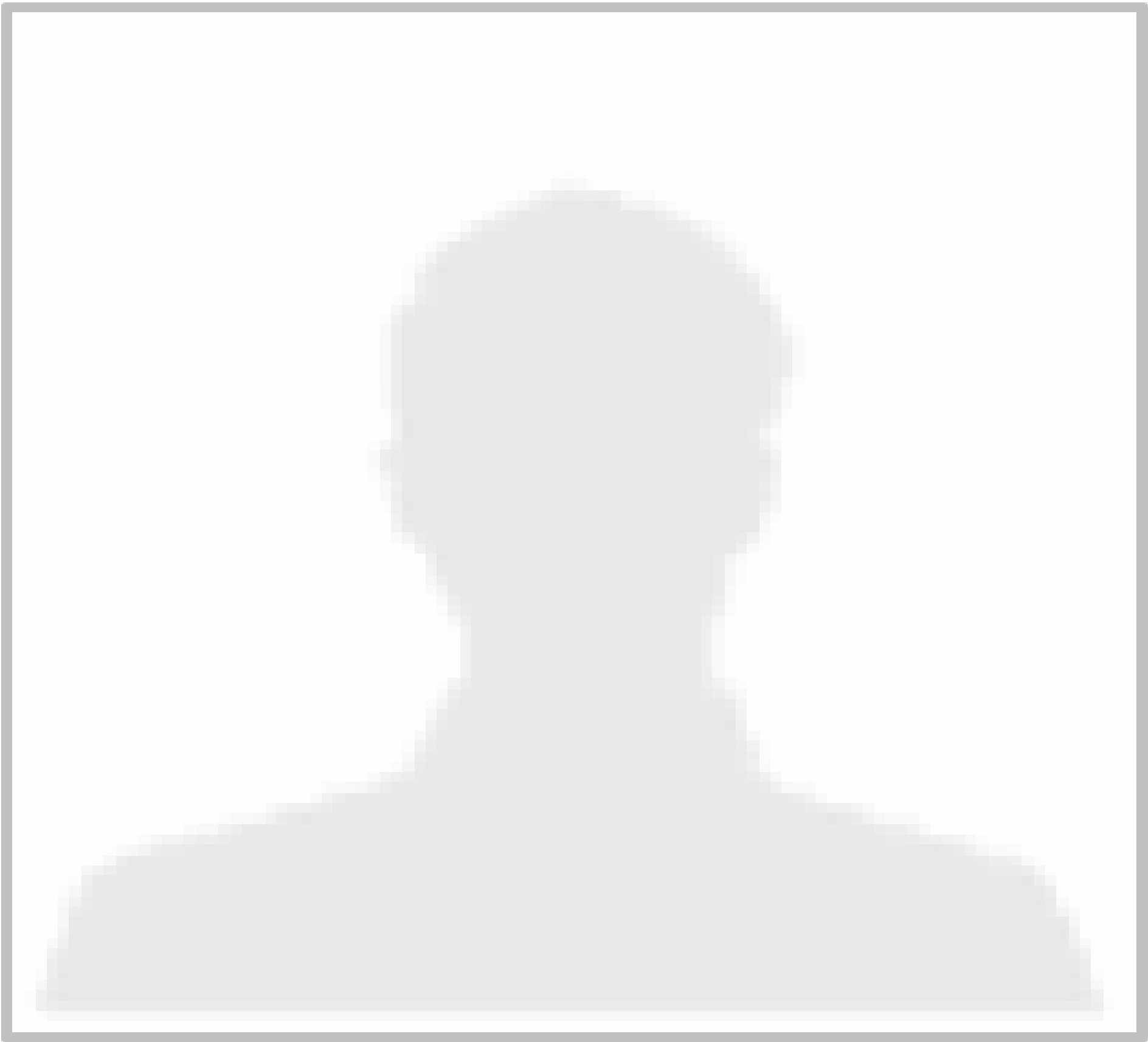


Advisory Board Members

Prof. Dr. Abdul Moneim Abdel Halim

Linguistics

Faculty of Arts – Minia University – Egypt
saydabdelmoneam@gmail.com

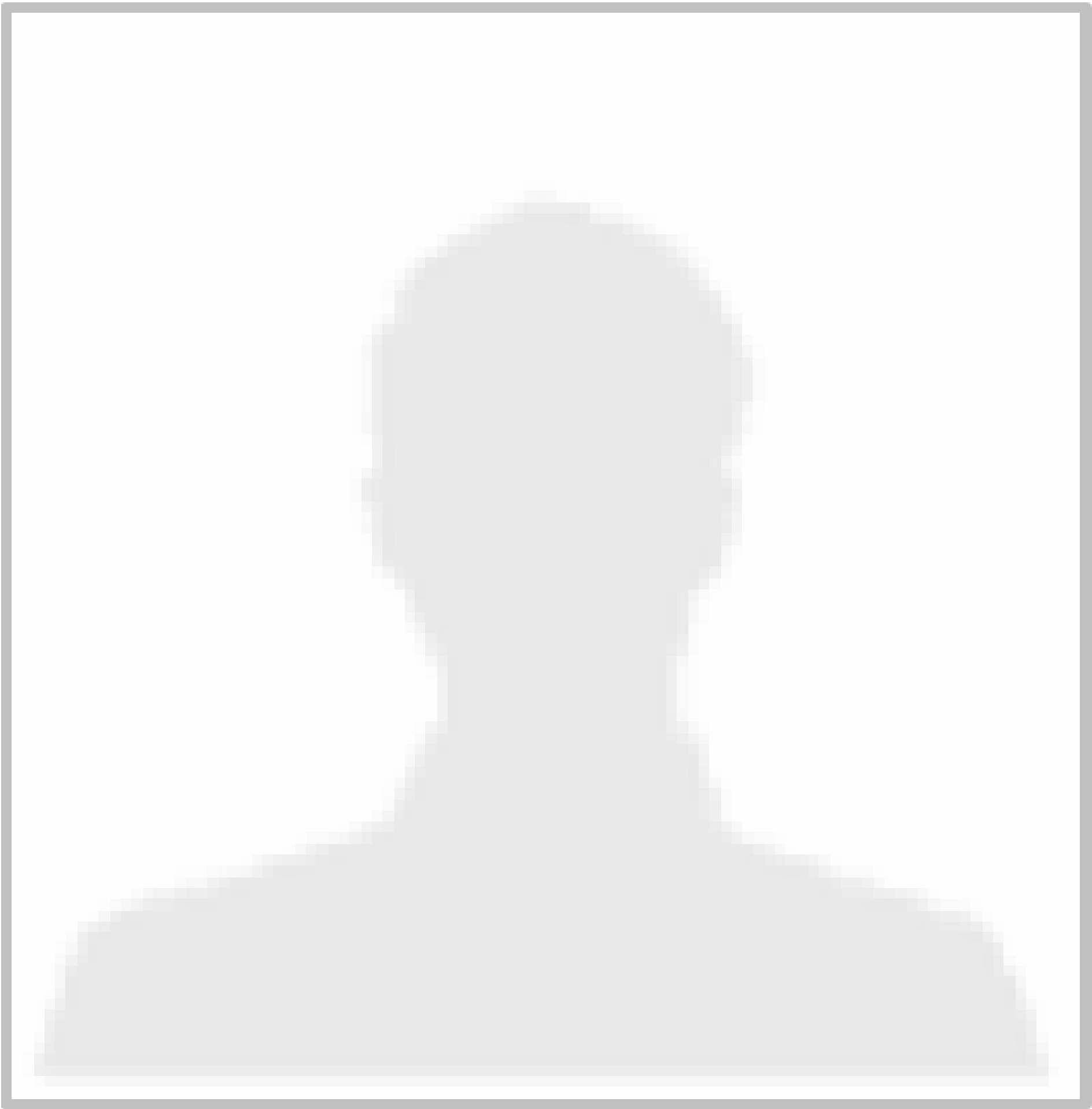


Advisory Board Members

Prof. Dr. Issa Issa

Linguistics

Faculty of Arts – Minia University – Egypt
dr.eissa54@yahoo.com

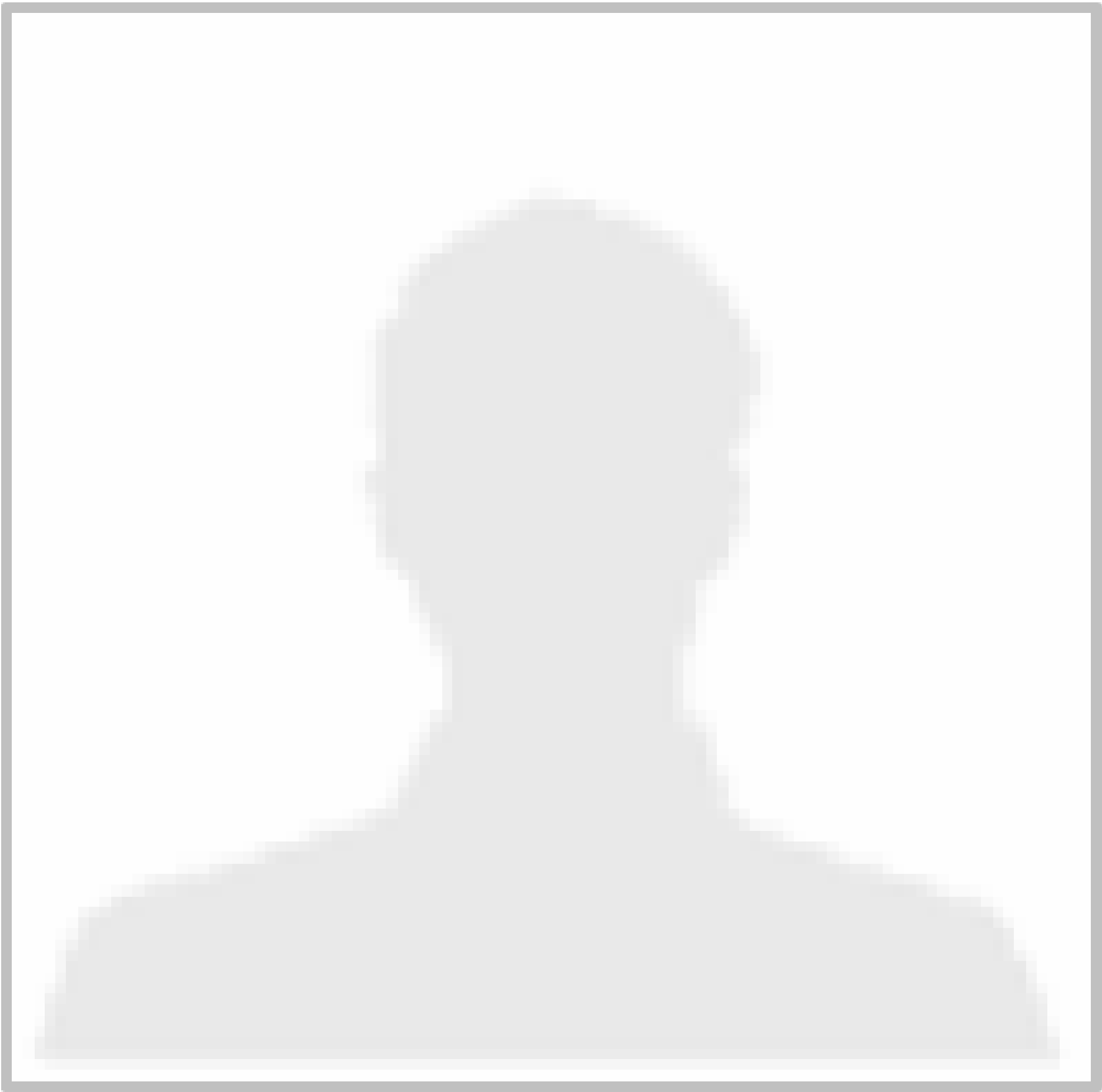


Advisory Board Members

Prof. Dr. Ahmad Hijazi

Linguistics

Faculty of Arts – Minia University – Egypt
dr.ahmadhigazi@gmail.com

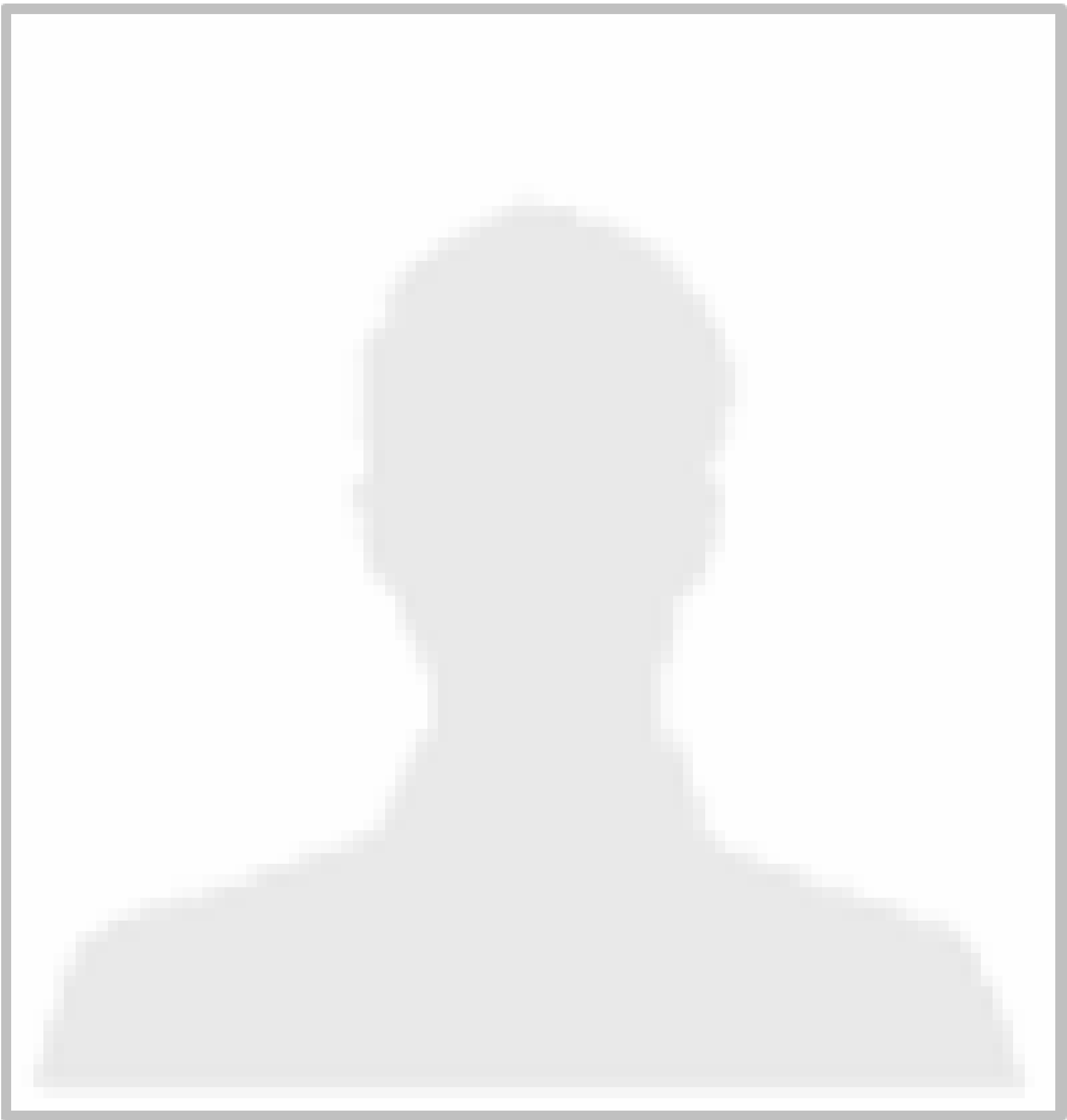


Advisory Board Members

Prof. Dr. Ashraf Abdul Karim

Linguistics

Faculty of Arts – Minia University – Egypt
ashrafbk2015@gmail.com



Advisory Board Members

Prof. Dr. Hafez Al-Maghrabi

Hadith

Faculty of Arts – Minia University – Egypt
drhafiz53@yahoo.com

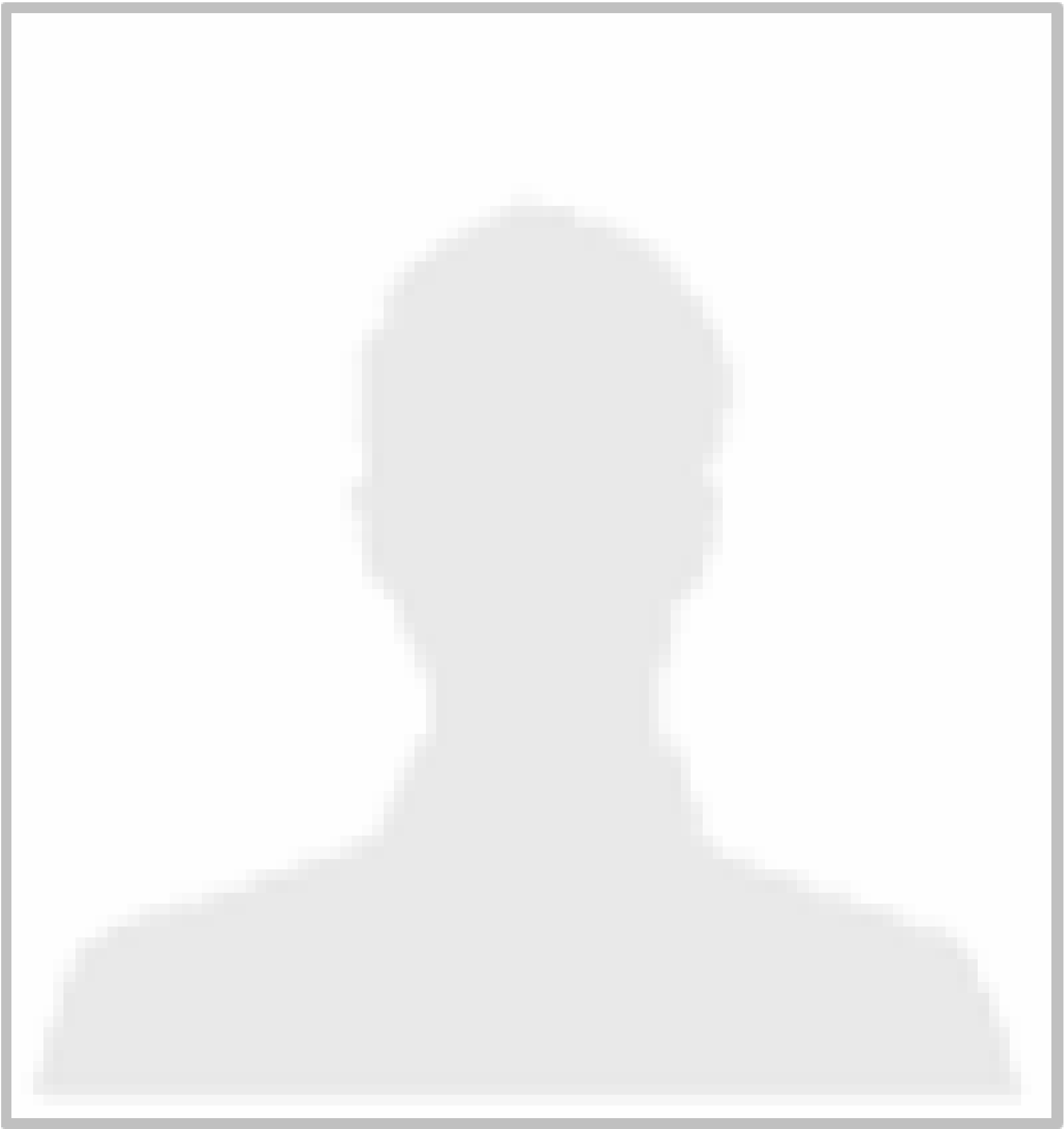


Advisory Board Members

Prof. Dr. Mustafa Bayoumi Abdelsalam

Rhetoric, Criticism and Comparative Literature

Faculty of Dar Al-Uloom – Minia University – Egypt
mustafaabdulsalam@yahoo.com



Advisory Board Members

Prof. Dr. Essam Kamil

Literary Criticism

Faculty of Arts – Minia University – Egypt
esam59@yahoo.com

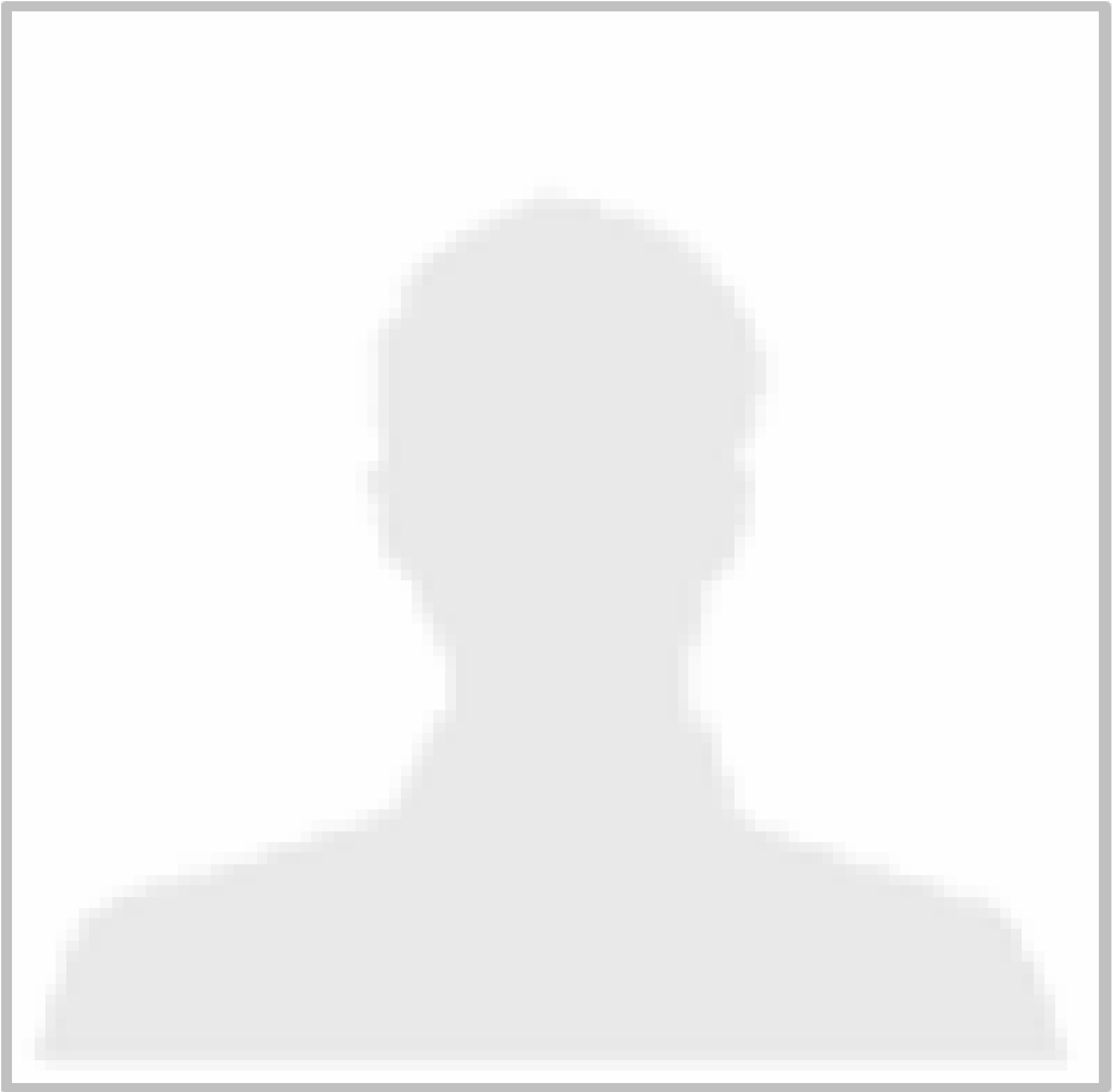


Advisory Board Members

Prof. Dr. Chahier Dkroury

Literary Studies

Faculty of Arts – Minia University – Egypt
sdakrury@yahoo.com

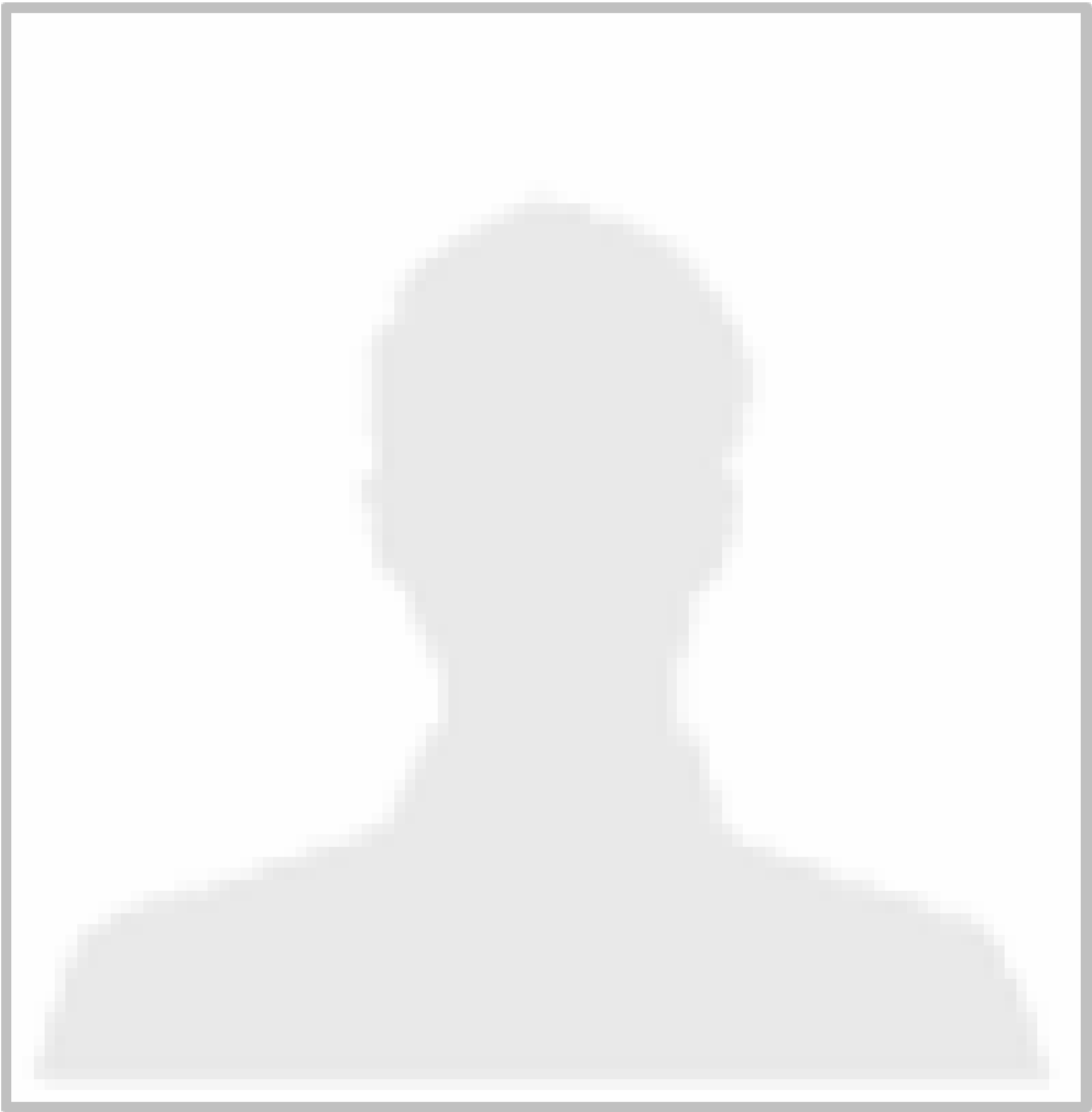


Advisory Board Members

Prof. Dr. Muhammad Hussain

Literary Studies

Faculty of Arts – Minia University – Egypt
elbrinsalbadr y@yahoo.com

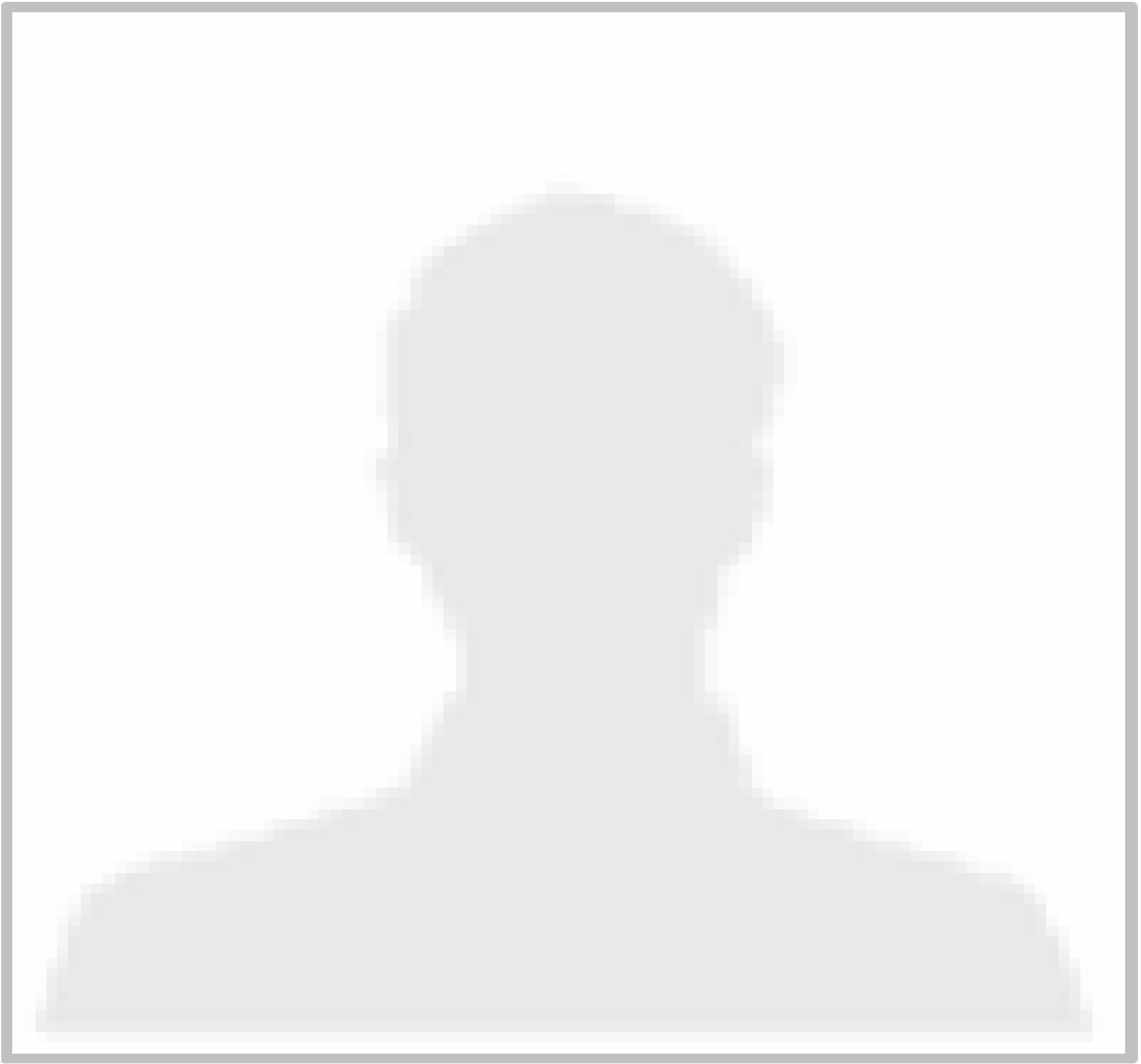


Advisory Board Members

Prof. Dr. Sawsan Naji

Literary Studies

Faculty of Arts – Minia University – Egypt
sawsannagy@gmail.com

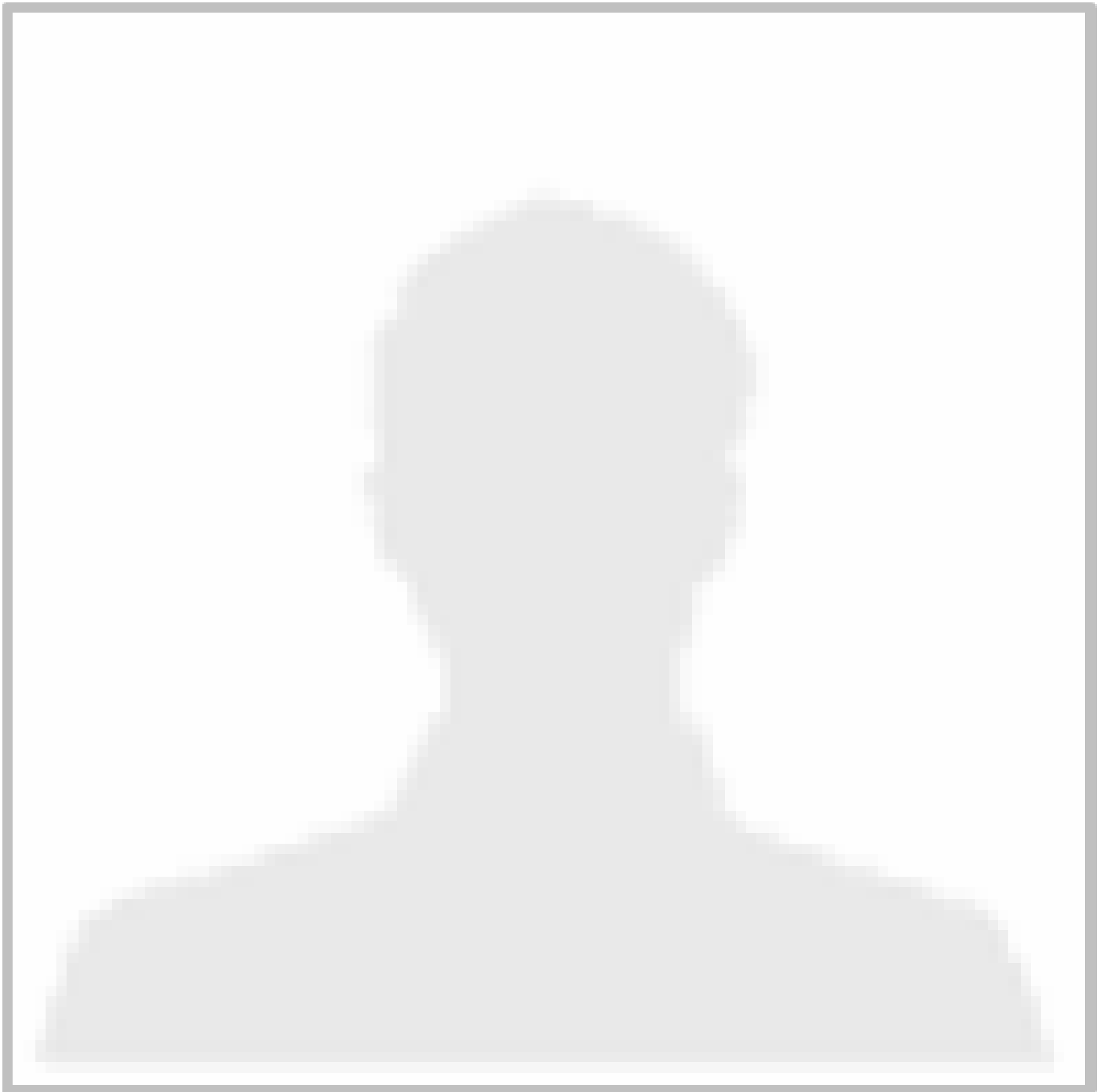


Advisory Board Members

Prof. Dr. Saeed Al-Tawab

Literary Studies

Faculty of Arts – Minia University – Egypt
el_tawab@hotmail.com

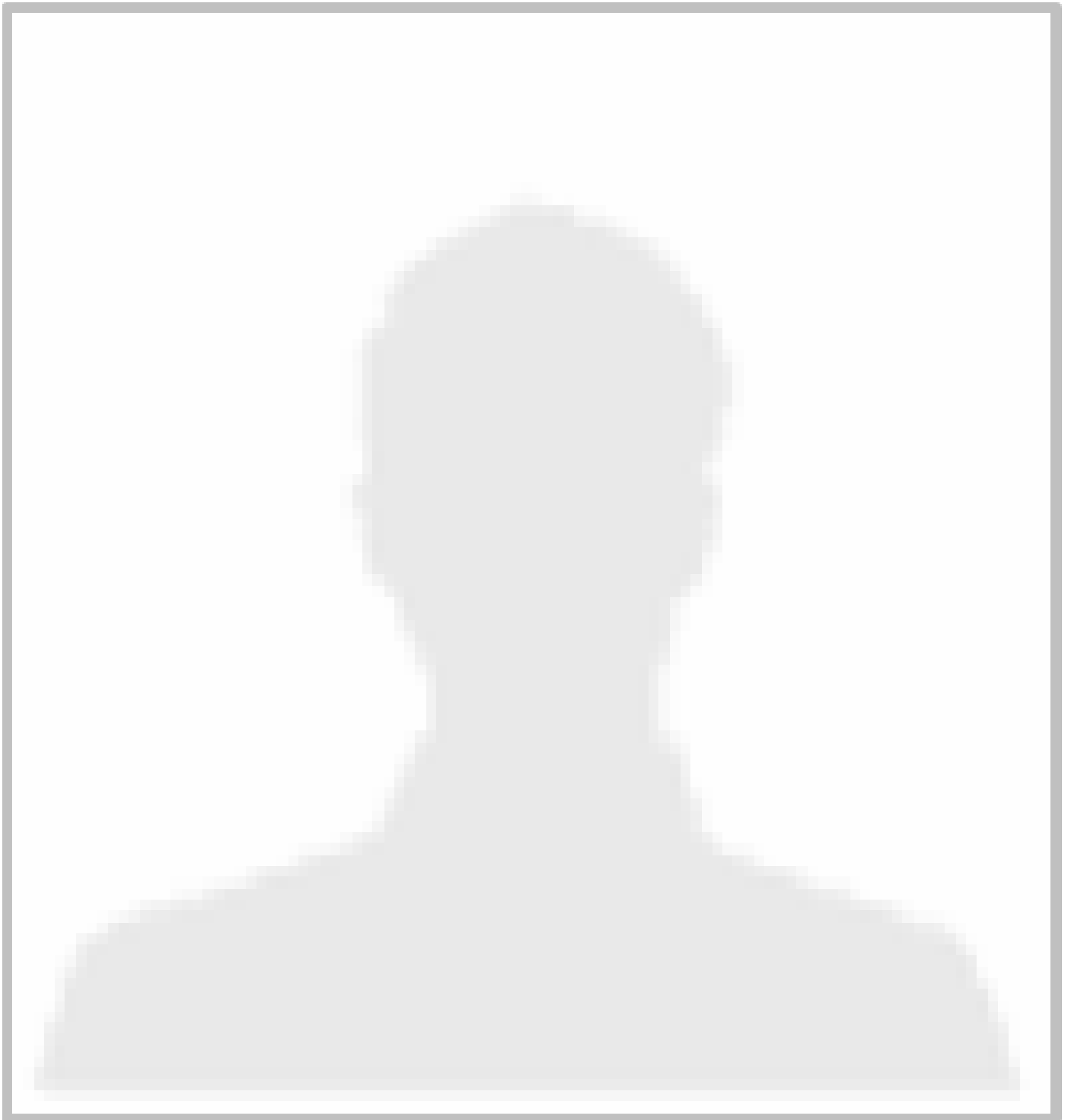


Advisory Board Members

Prof. Dr. Abdul Jawad Al-Faham

Literary Studies

Faculty of Arts – Minia University – Egypt
mohamed.abdelghany@minia.edu.eg

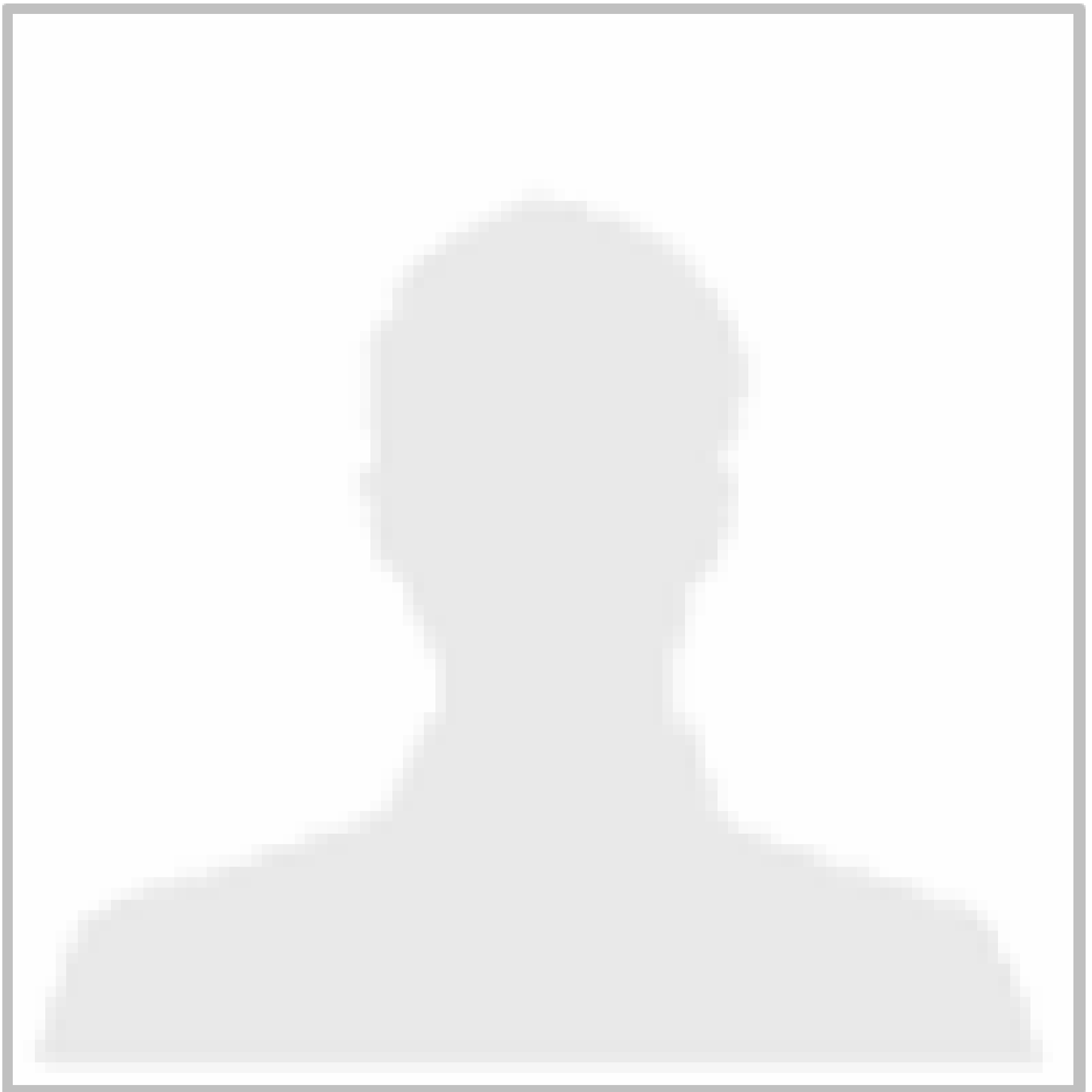


Dr. Muhammad Kamel

Islamic History and Civilization

Professor of Islamic History and Civilization – Faculty of Arts – Minia University – Arab Republic of Egypt

dr.mohamed1979@yahoo.com

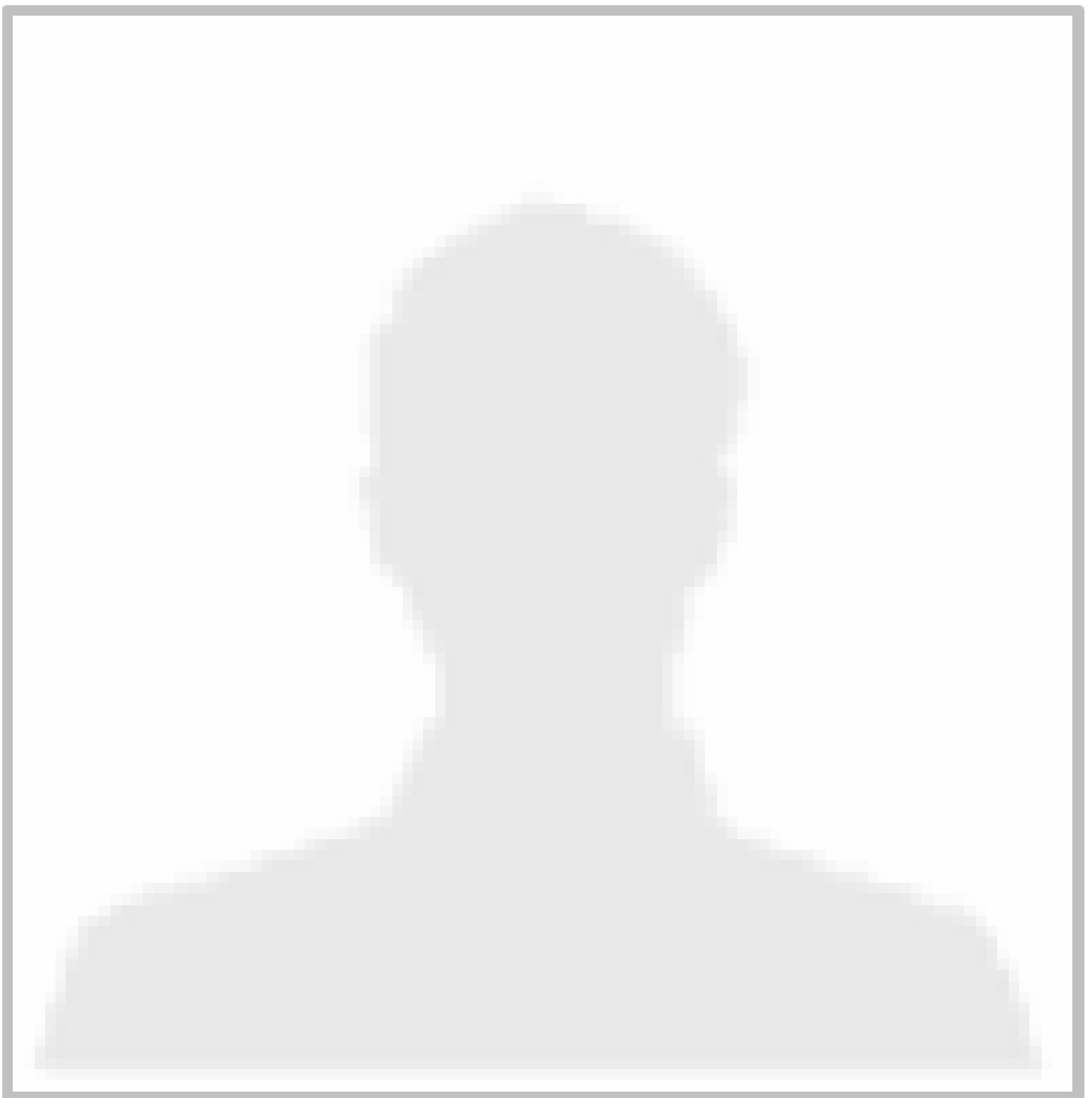


Dr. Abdullah Al-Ghamdi

Islamic History

Professor of Islamic History – Faculty of Tourism – Taif University – Kingdom of Saudi Arabia

dr_abdullah@hotmail.com

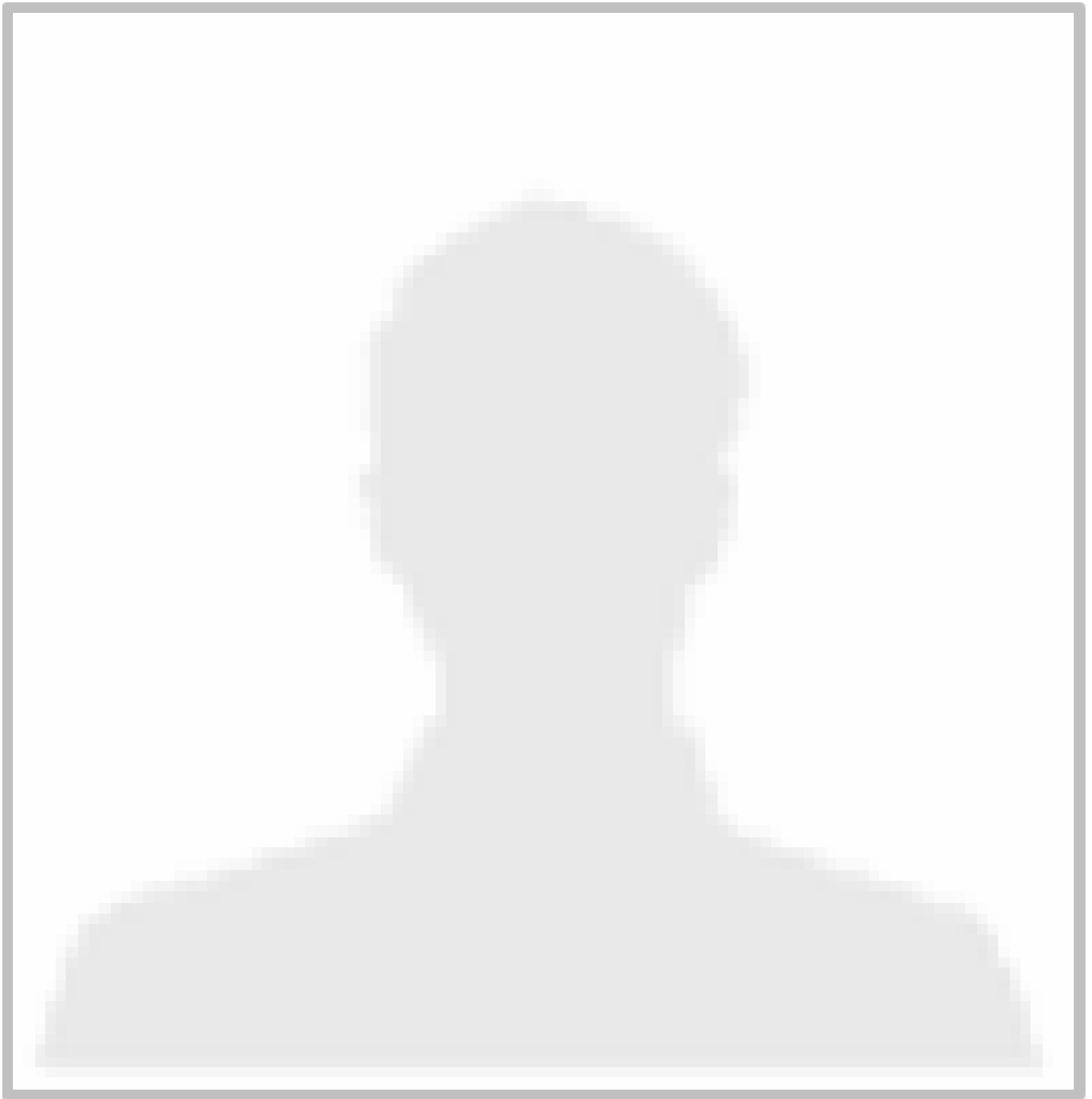


Prof. Dr. Abul-Fadl Badran

Literature and Hadith Criticism

Professor of Literature and Criticism – South Valley University – Arab Republic of Egypt

profbdran2020@hotmail.com

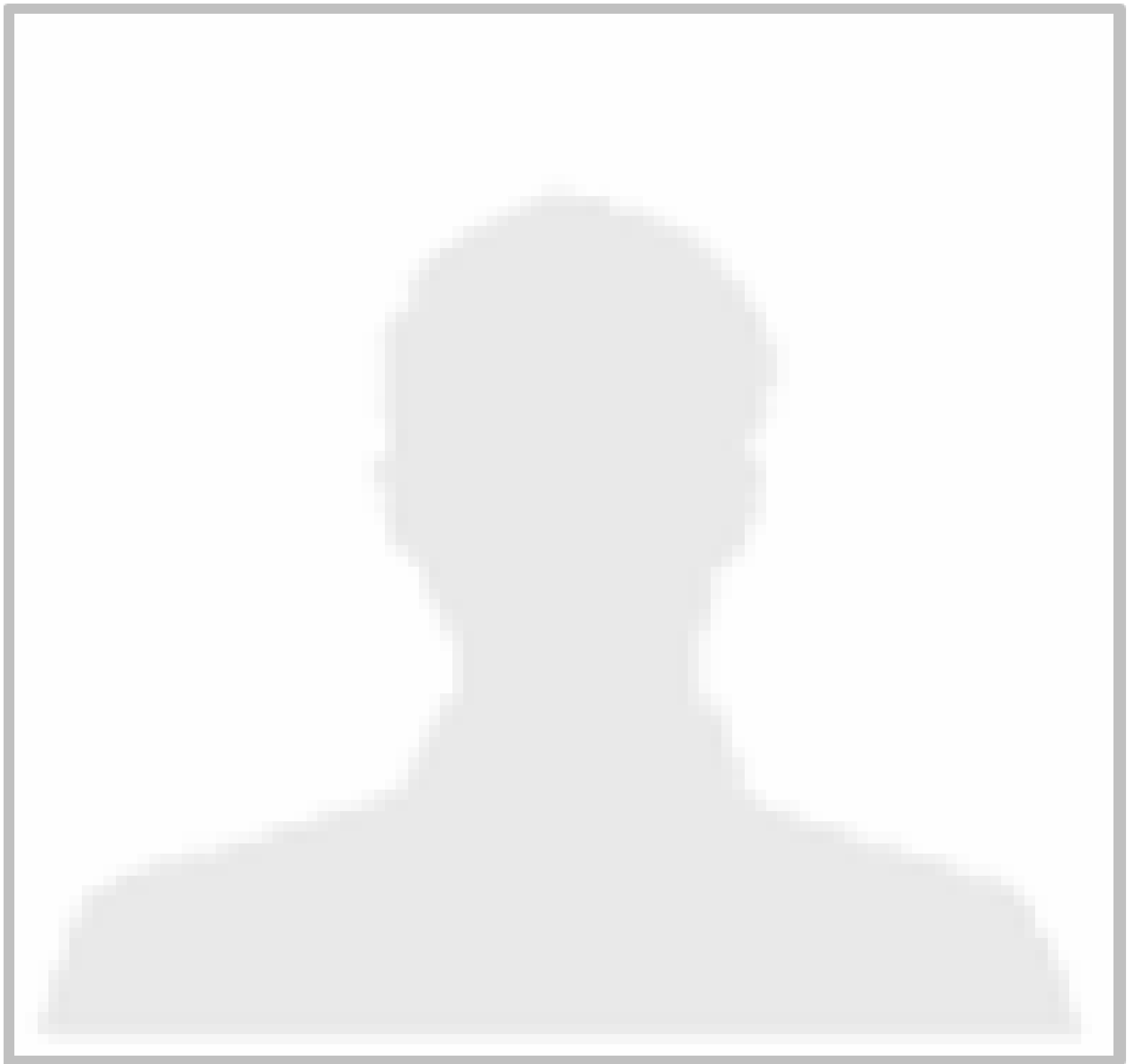


Prof. Dr. Hany Abu Rateiba

Literature and Hadith Criticism

Professor of Literature and Hadith Criticism – Beni Suef University – Arab Republic of Egypt

hani.ismail@art.bsu.edu.eg



Prof. Dr. Mamdouh Al-Ramaly

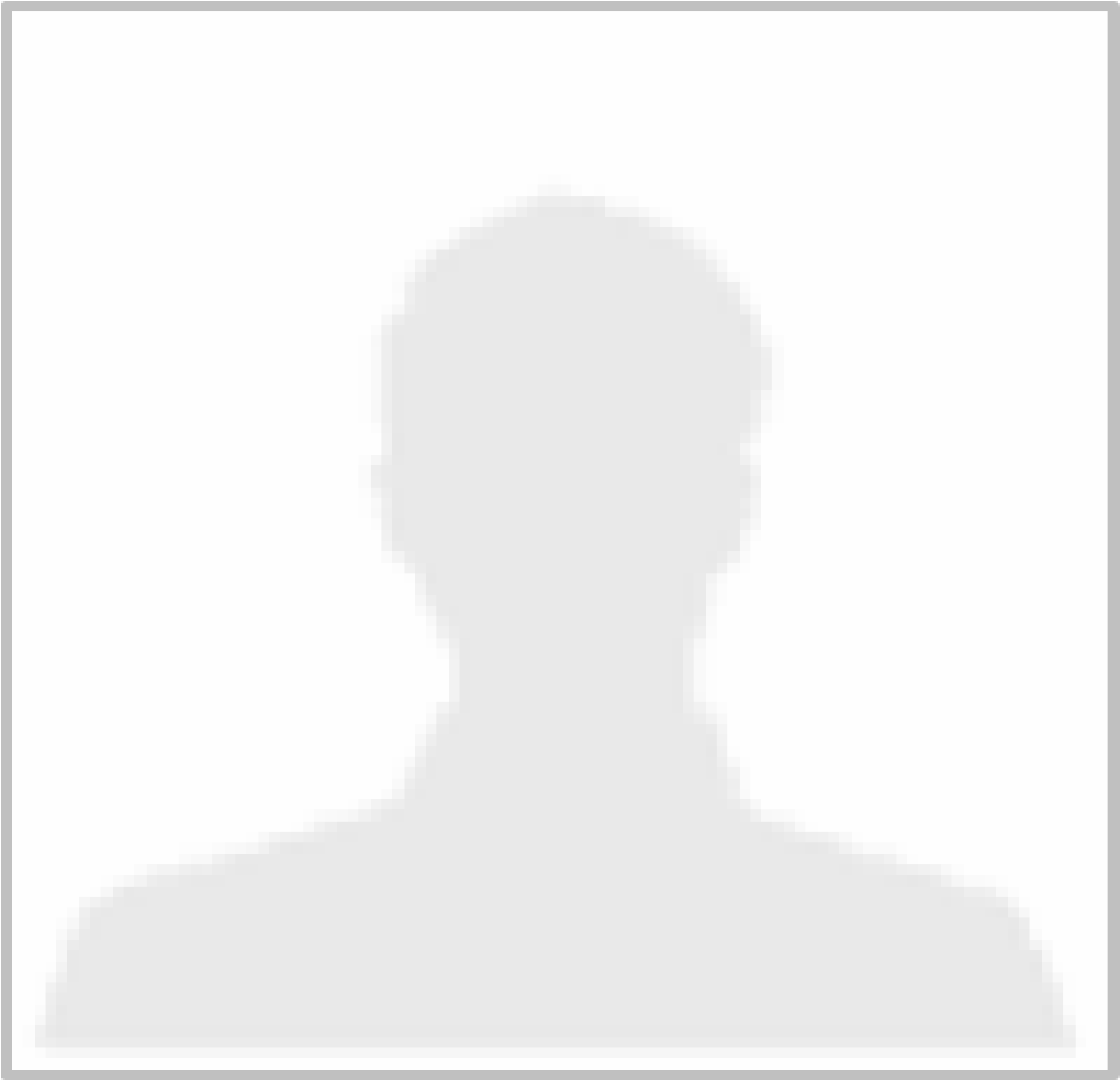
Grammar and Morphology

Professor of Grammar and Morphology – Minia University – Arab Republic of Egypt

rammalmy@yahoo.com

<https://dram.journals.ekb.eg/journal/editorial.board>

42/46

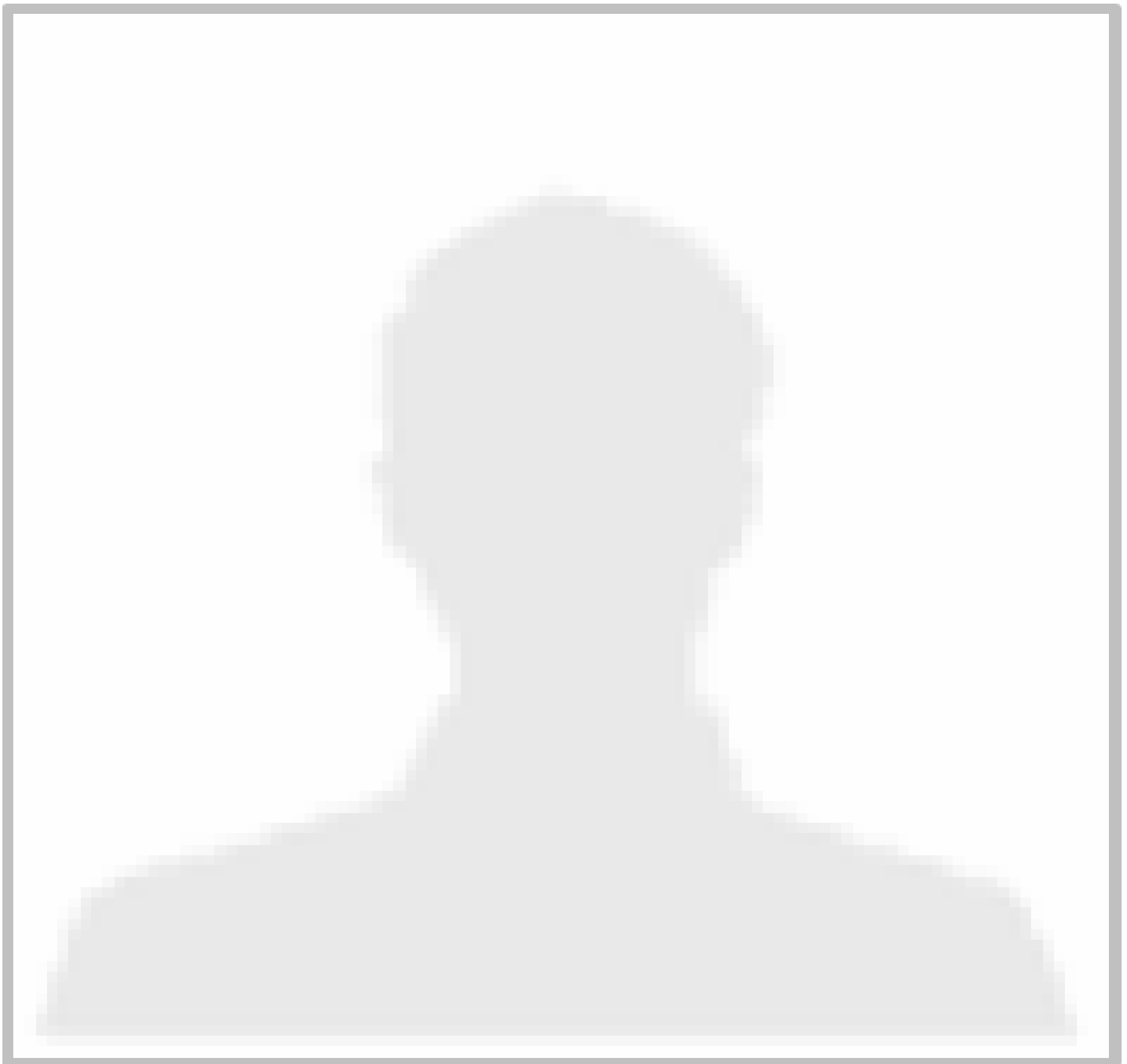


Dr. Elshimaa Kamel

Islamic History

Professor of Islamic History and Civilization – Minia University – Arab Republic of Egypt

elshimaa.mohamed3@mu.edu.eg



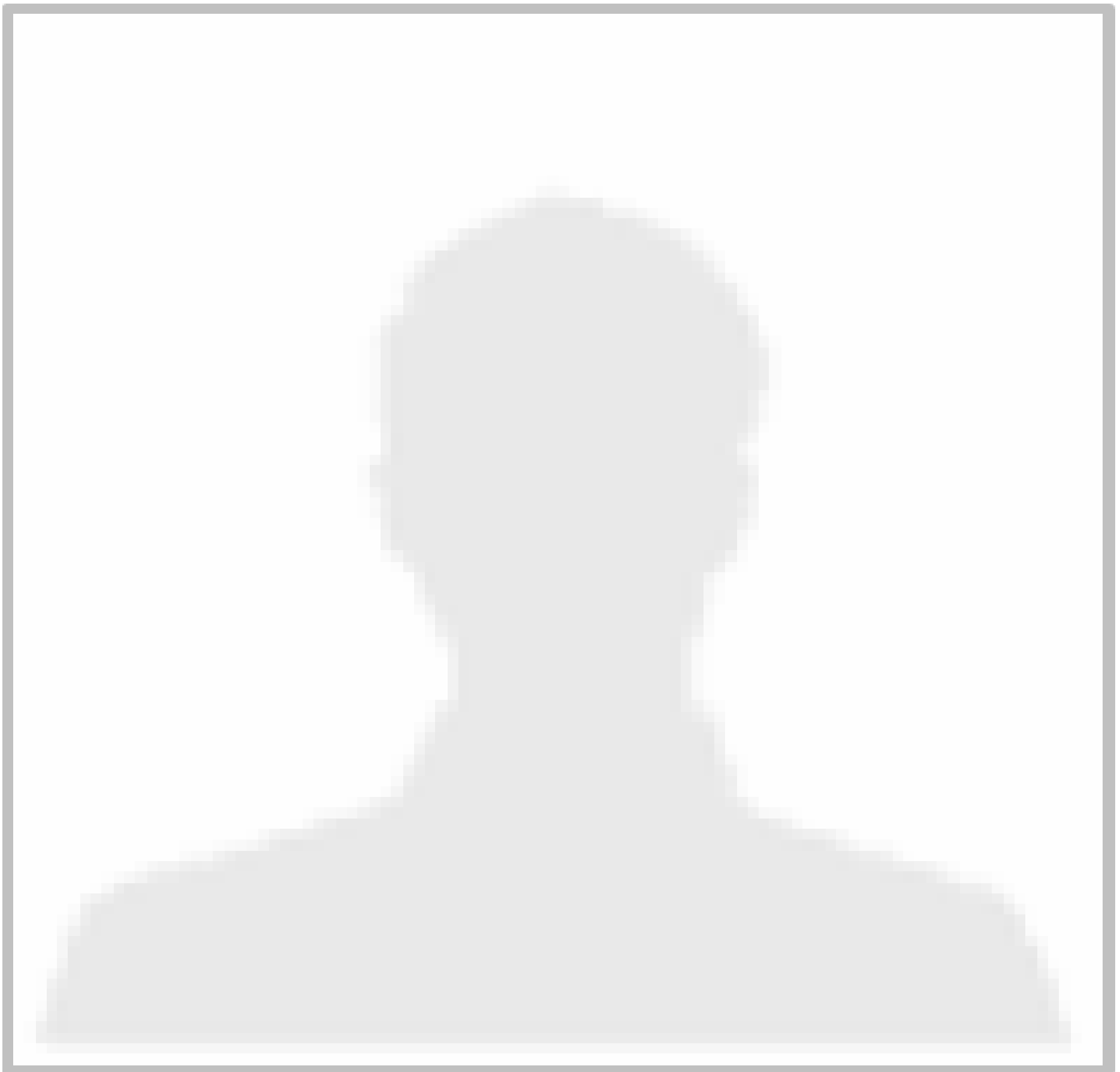
Executive Team

Dr. Mahmoud Muhammad Bahgat

Islamic Law

Faculty of Dar Al-Uloom – Minia University

mahmoudmbahgat@minia.edu.eg



Editorial Secretary

Asst. Prof. Dr. / Ahmed Mohamed Ahmed Al-Leithy

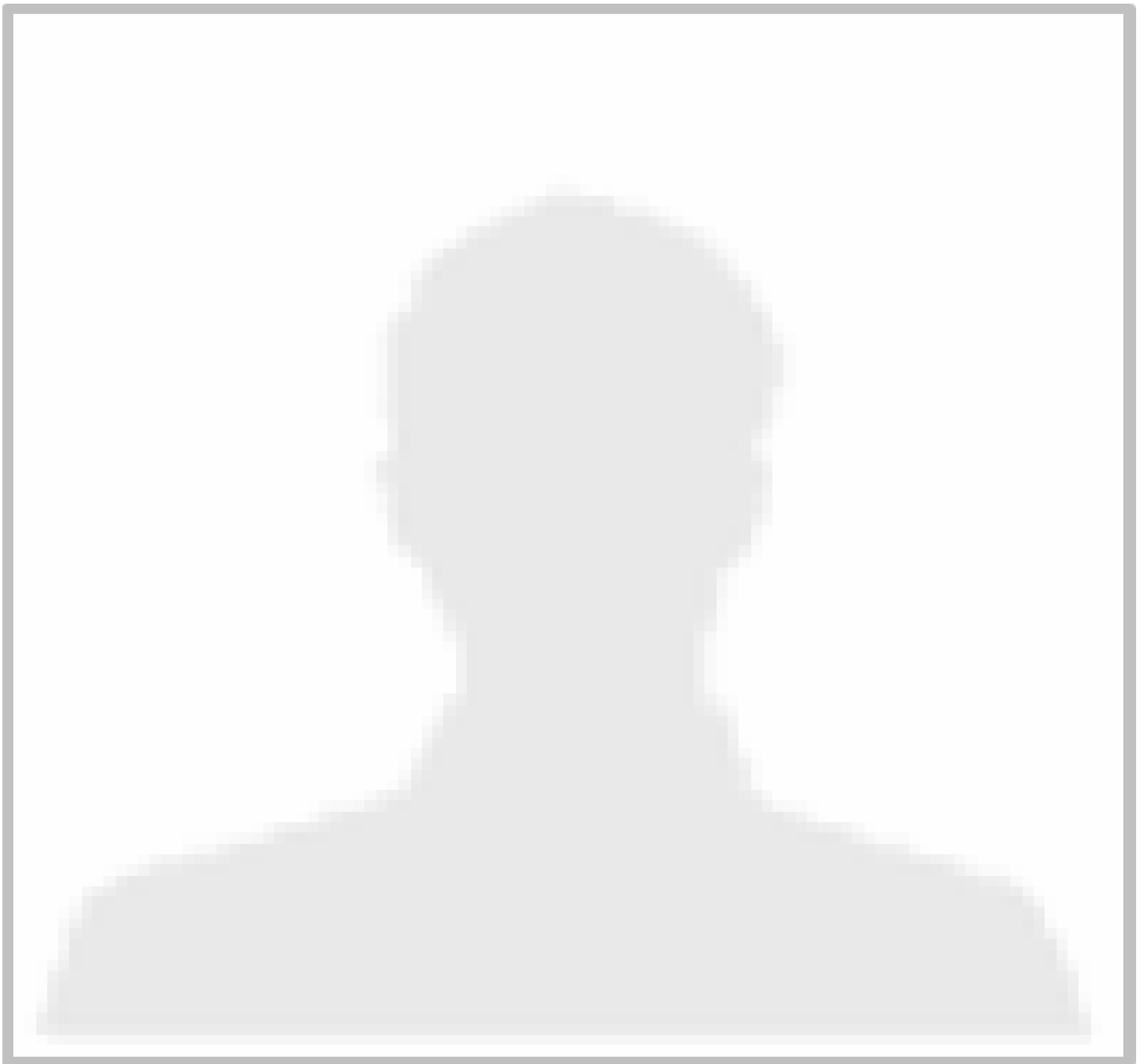
Literary Studies

Faculty of Dar Al-Uloom – Minia University

dr_ellaithy@mu.edu.eg

<https://dram.journals.ekb.eg/journal/editorial.board>

45/46



Advisory Board Members

Prof. Dr. / Ghada Jameel Qarni Mohamed Youssef

Ancient Arabic Literature

Department of Literary Studies – Faculty of Dar Al-Ulum – Minia University
ghadajamil@mu.edu.eg

Publication Ethics

The journal adopts the standards of the **Committee on Publication Ethics (COPE)**. The following outlines the ethics of scientific publishing and the standards adopted by the journal. These are based on the code of ethics for scientific publishing issued by COPE, in addition to professional ethical values and practices specific to editors, reviewers, and researchers.

Author Responsibilities:

- Adherence to the principles and standards of research and publication ethics.
 - Submitting original research with high quality and providing accurate references cited in the research.
 - Compliance with the journal's rules and regulations.
 - Not submitting previously published research in other journals.
 - Not submitting the same research to more than one journal at the same time.
 - Avoiding any form of plagiarism or manipulation of data or results within the research.
 - Ensuring that all contributors who have significantly contributed to the research are listed as authors.
 - Listing authors' names in order according to their contribution to the research.
 - Avoiding listing individuals who did not contribute to the research as authors.
 - Disclosing any potential conflicts of interest that may influence the research results.
 - Refraining from submitting research that conflicts with ethical standards, especially those related to human or animal rights.
 - Avoiding all forms of unethical behavior such as plagiarism, falsification, or fabrication.
 - Correcting any errors discovered in the research after publication and notifying the journal.
 - Maintaining copyright and intellectual property rights.
 - Complying with the journal's requirements for publication and submitting the research according to the approved format.
 - In case of rejection, authors must respect the journal's decision and may submit the research elsewhere.
-

Reviewer Responsibilities:

- The review process is a fundamental step in the publication process and contributes to improving the quality of published research.
- Reviewers must adhere to confidentiality and not disclose any information about the research under review.
- Providing objective and constructive evaluation based on scientific criteria.
- Informing the editorial board of any conflict of interest that may affect the review process.
- Avoiding personal bias and evaluating research fairly and objectively.
- Not using information obtained during the review process for personal benefit.
- Commitment to deadlines specified for completing the review.

- Adherence to confidentiality standards related to the review process; research submitted for review must be treated as confidential and must not be disclosed or discussed with others except with authorization from the Editor-in-Chief.
 - Commitment to issuing judgments and decisions resulting from the review.
 - Providing a clear explanation of the opinion with supporting arguments.
 - Adherence to the time allocated for completing the review process.
-

Editor Responsibilities:

- The Editor-in-Chief of the journal is responsible for selecting appropriate reviewers according to the subject of the research and their specialization, ensuring complete confidentiality.
 - The Editor-in-Chief is responsible for the final decision regarding the acceptance or rejection of research.
 - The acceptance or rejection decision is based on reviewers' reports, their observations, the scientific value of the research, and its relevance to the journal's field.
-

Responsibilities Toward Authors:

- Maintaining the confidentiality of submitted research and protecting authors' intellectual property rights.
- Ensuring that submitted research complies with ethical standards of scientific publishing.
- Not discriminating between authors based on gender, race, religion, or political affiliation when making decisions.
- Keeping all documents related to submitted research confidential.
- Ensuring that the review process is conducted confidentially.

Peer Review Process

- The researcher submits the manuscript intended for publication.
- The manuscript is sent to two specialized reviewers in the field of the research (one reviewer from within the faculty and another from outside the university), provided that they are qualified to review the research.
- If feedback from the reviewers is received, the manuscript is returned to the researcher to implement the required revisions and then resubmitted once again.
- The revised manuscript is then sent again to the reviewer to ensure that the revisions have been properly implemented and that the research is suitable for publication.
- If all revisions are successfully completed and the reviewers approve, the research is accepted for publication in the journal.

Provisions of Annulment of Arbitration Awards in the Saudi Arbitration System

An Applied Comparative Study in Islamic Jurisprudence

Dr. Turki bin Abdullah bin Aqeel Al-Tayyar

Associate Professor in the Department of Sharia Policy
Higher Institute of Judiciary, Imam Muhammad bin Saud Islamic University, Riyadh

Introduction:

Praise be to Allah, who says:

"But no, by your Lord, they will not believe until they make you judge concerning that over which they dispute among themselves, then find within themselves no discomfort from what you have judged and submit in full submission." (1)

And peace and blessings be upon the Messenger of Allah.

Resolving disputes and conflicts must not contradict Islamic Sharia, whether the resolution of the dispute is through litigation or arbitration, because the judgment of the judiciary and arbitration is a matter of human reasoning that may be correct or incorrect.

For this reason, the Kingdom of Saudi Arabia established, within the framework of Sharia policy, regulatory provisions for methods of challenging judicial and arbitral rulings, and laid the foundation for contesting such rulings for those concerned.

There is a difference and distinction between methods of challenging judicial rulings and arbitral rulings. The system made the challenge to arbitral rulings through what is called an annulment action, and this differs from the method of challenging judicial rulings.

The grounds for challenging judicial rulings differ from the grounds for challenging arbitral rulings, and these grounds have a special nature, especially in understanding them and in understanding modern judicial applications for them, and in addressing the problems that arise in interpreting these grounds from the explanation of laws, or that arise from differences between the interpretation of laws and the judiciary regarding these grounds, or that arise from differences between the explanation of laws in interpreting these grounds and defining their limits.

Among the most important issues and problems that the reader must realize is that if an arbitration award is issued with a judicial ruling of annulment, it means a great loss of time for the parties to arbitration who were aiming from arbitration to save time, and the parties to arbitration enter into a new dispute with a new case before the judiciary or arbitration on the same subject, and members of arbitral tribunals may enter into financial compensations for arbitration parties in certain cases.

Similar to these issues, problems, and what will be mentioned among the reasons for choosing the research topic, and what will be mentioned regarding the importance and problems of this research, the title of this study was selected, which is as follows:

Reasons for Choosing the Research Topic:

1. The need to clarify the differences between interpretations of laws in explaining the causes of annulment, which may lead to differences in opinions and preferences.
2. The desire to highlight some practices in the recent practical reality, which have emerged from some members of arbitral tribunals, and which may result in the annulment of arbitration awards, with the aim of warning against such actions.
3. The need to address the practical issues that have arisen in some arbitration cases, as will be discussed, which have affected arbitration awards.
4. The need to assist arbitration parties and arbitral tribunals in identifying the legal risks resulting from a lack of understanding of judicial reasoning regarding the causes of annulment of arbitration awards.

Based on the above, the importance of the research is as follows:

1. Highlighting and clarifying the incorrect practices and behaviors in the practical reality that are issued by arbitral tribunals, which, if they are not addressed, may lead to the issuance of a judicial ruling by the competent court annulling the arbitration award due to violations of legal texts and judicial reasoning.
2. The existence of differences in the interpretation of laws in some causes of annulment of arbitration awards, which requires the researcher to clarify and prefer the opinion that is closer to judicial reasoning in Saudi courts.
3. Presenting the most important judicial precedents and principles related to the causes of annulment of arbitration awards, which helps in ensuring the stability of judicial rulings as much as possible, and establishing guiding principles that can be relied upon in interpreting the causes of annulment of arbitration awards.

The following previous studies were also reviewed, which addressed the subject of annulment of arbitration awards, including those that discussed the topic briefly or in detail. Among them are studies that examined the annulment of arbitration awards under Saudi law and Egyptian law. This research also benefits from previous studies that addressed the subject, especially those that discussed arbitration rulings, causes of annulment, and their legal procedures.

Among the studies are those that addressed annulment actions of arbitration awards under Algerian law, such as the study titled: “Annulment of Arbitration Awards under Algerian Law,” and the study “Annulment of Arbitration Awards in International Arbitration,” and others. These studies differ from our research in that they focused on international arbitration and its procedures, whereas our research focuses on the Saudi system and its judicial applications, highlighting judicial rulings and the opinions of jurists as much as possible.

There are also studies that addressed the explanation of the Saudi Arbitration Law, such as the book “Explanation of the Saudi Arbitration Law,” and another book titled “Commentary on the Saudi Arbitration Law.” Some studies have addressed writing about the legal provisions related to arbitration awards. However, this research differs from previous studies in that it addresses judicial rulings and Saudi judicial applications, highlights Islamic legal rulings and the opinions of Islamic jurists as much as possible, and focuses on aspects not covered in previous studies.

This research aims to achieve the following:

1. Addressing some errors and violations present in the practical reality of arbitration cases, which have an impact on the annulment of arbitration awards.
2. Presenting judicial precedents related to the annulment of arbitration awards as much as possible.
3. Presenting the most correct interpretations of legal provisions regarding the causes of annulment, choosing the view that is closest to judicial reasoning as much as possible.

Among the difficulties faced in preparing this research is the lack of sufficient books or studies that address practical issues in arbitration cases that lead to the annulment of arbitration awards, and the lack of a comprehensive book that combines theoretical and practical aspects of the causes of annulment of arbitration awards in the Saudi system.

Research Methodology:

The research adopts an applied method, collecting and analyzing prominent Saudi judicial rulings, and applying them to the causes of annulment of arbitration awards. It links the legal text to judicial application, clarifies the cause of annulment in the place of the ruling, and mentions the text of the judicial ruling and the reasoning behind it.

In judicial reasoning, the research explains what is derived from judicial rulings and their causes, and clarifies judicial interpretation in explaining the reasons for annulment in the subject of the research. It highlights the errors and violations that occurred in judicial practice. The research also adopts a comparative approach between statutory rulings and Islamic jurisprudence as much as possible. If the issue under discussion has a basis in Sharia or a statutory origin, priority is given to the stronger opinion where possible, with linking judicial rulings to the Saudi Arbitration Law, including analysis and detail of the issue.

I also aimed to present the dispute in general matters—both from a theoretical and practical perspective—where there is disagreement between different schools of thought, or where there is an absence of agreement, clarifying points of difference and preference based on stronger evidence, and documenting meanings in specialized language as much as possible. This includes understanding meanings through their usage in scholarly works, clarifying meanings through legal texts, and referencing reliable sources.

I ensured to cite the sources directly in the footnotes when the text is explicitly mentioned, and if it is not directly quoted, I refer to the source in general. I also focused on linking the research topic with judicial applications as much as possible, and concentrated on explaining the causes of annulment of arbitration awards in detail, clarifying the required conditions, controls, and cases, and addressing the reasons for annulment as much as possible.

The research also aims to present the most important judicial precedents related to the causes of annulment of arbitration awards and to highlight the judicial principles derived from them. It also discusses some explanations of the Saudi Arbitration Law and highlights some legal interpretations related to arbitration.

The research focuses on addressing the main problems and issues of the study. These problems appear through incorrect practices in practical reality by arbitral tribunals, which result in the issuance of rulings by the Court of Appeal specializing in annulment of arbitration awards.

Among these issues is the absence of unified judicial reasoning in explaining the causes of annulment of arbitration awards, which leads to differences in judicial decisions. There are also issues arising from differences between arbitral tribunals and courts, or inconsistencies in judicial circuits, which is reflected in the issuance of conflicting judicial rulings regarding the same issue.

These differences result in harm to arbitration parties, including annulment of arbitration awards, loss of time, effort, and money, and the necessity to initiate a new case on the same subject.

It can be said that what this research addresses are the most prominent questions that include the main issues of the study, which are:

1. What are the incorrect practices in the practical reality of arbitration cases that result in judicial rulings annulling arbitration awards?
2. Does the judiciary re-examine the arbitration award if the arbitral tribunal commits a cause of annulment of the arbitration award, or is it limited to considering the annulment claim only?
3. What are the reasons that lead to the annulment of arbitration awards, and are the grounds for annulment exclusively limited to what is stipulated in the law, or are there other reasons?
4. What are the causes that lead arbitral tribunals to commit violations that result in the annulment of arbitration awards from a general and practical perspective?
5. How can the problems of issuing judicial rulings annulling arbitration awards be addressed?
6. Does the party harmed by the annulment of the arbitration award have the right to claim compensation?

These are the most important questions addressed in the research.

The research is divided as follows:

- Preliminary topic: Definition of judgment, cause, nullity, system, and arbitration
- First topic: Causes related to the arbitration agreement
- Second topic: Causes related to the arbitral tribunal
- Third topic: Causes related to arbitration procedures
- Fourth topic: Causes related to issuing the arbitration award
- Fifth topic: Causes related to violating Islamic Sharia rulings or public order
- Sixth topic: Causes related to violating the agreement of arbitration parties and their rights in the subject of the dispute

Conclusion

List of references and sources

After that, the research moves to the detailed discussion of the topics.

Preliminary Topic: Definition of Judgment, Cause, Nullity, System, and Arbitration

In this section, the research discusses defining the terms of the research title, defining each term individually, as well as defining them collectively, considering the entire phrase as a compound expression.

First, we begin by defining *judgment* linguistically and technically:

The definition of the term *judgment* linguistically: the word *judgment* has multiple meanings. It is said: *ḥakama* (to judge), meaning to decide or rule. It is also said: the judge (*al-ḥākim*) is the one who decides disputes, (1) and *ḥikmah* (wisdom) refers to knowledge and understanding. The term *ḥakam* is also used for the one who adjudicates matters, and the term may vary in meaning depending on context. (2)

For example, in the context of acts of worship, it may refer to rulings of worship, and it is also said: the rulings of Allah, meaning His commands and limits. (3)

In the terminology of Islamic jurists, the meaning of judgment differs depending on the context. It is defined as: the address of Allah related to the actions of those legally accountable. (4)

Among the Hanafis, judgment is defined as: a legal ruling that determines the nature of actions in terms of their pillars, conditions, and obligations.

As for the definition of judgment in legal systems, (5) we find that its meaning differs according to the context in which it appears, the type of system, and its branches. For example:

In the Basic Law of Governance, (6) judgment refers to authority and what is required of it in terms of policy and administration.

In the Saudi Law of Procedure before Sharia Courts, the term refers to a judicial decision issued by a competent court. (7)

1. See: Mukhtar Al-Sihah, author: Zain Al-Din Abu Abdullah Muhammad bin Abi Bakr Al-Razi, p. 178, edited by Youssef Al-Sheikh Muhammad, publisher: Al-Maktaba Al-'Asriyya – Dar Al-Namudhajiyya, Beirut – Sidon, 5th edition, 1420 AH / 1999.
2. See: Al-Mu'jam Al-Lughah Al-'Arabiyyah Al-Mu'asirah by Dr. Ahmad Mukhtar Abdul Hamid Omar and others, vol. 1, p. 539, publisher: Alam Al-Kutub, 1st edition, 1429 AH / 2008.
3. See: Kitab Al-Ta'rifat (Book of Definitions), author: Ali bin Muhammad bin Ali Al-Sharif Al-Jurjani, p. 92, edited and verified by a group of scholars, publisher: Dar Al-Kutub Al-'Ilmiyyah, Beirut – Lebanon, 1st edition, 1403 AH / 1983.
4. It is stated in the text: "If the Imam leads the prayer, he delivers two sermons (khutbatayn), and both sermons are like one in rulings." This is similar to what was presented in the two sermons of Friday prayer. The sermon is structured with opening and closing, and it may include repetition for emphasis. See: Nabil Al-Marrab, Guide for Students, by Abdul Qadir bin Omar Al-Shanqiti, vol. 2, p. 206, publisher: Maktabat Al-Falah, Kuwait, 1st edition, 1406 AH / 1986.
5. Issued by Royal Order No. (A/90) dated 27/8/1412 AH.
6. See: Basic Law of Governance in the Kingdom of Saudi Arabia, Article (5): Governance in the Kingdom of Saudi Arabia is a monarchy. Rule passes among the sons of the founding King Abdulaziz bin Abdulrahman Al Saud and their descendants. The most suitable among them shall be given allegiance according to the Book of Allah and the Sunnah of His Messenger, peace be upon him.
7. Issued by Royal Decree No. (M/1) dated 22/1/1435 AH.
8. It is stated: "If the court finds that the case is ready for judgment, it may issue its ruling immediately or postpone it to another session, notifying the litigants of the date of pronouncement of the judgment." Source: Official website of the Bureau of Experts at the Council of Ministers.

As for the definition of *cause* linguistically: it is said that the cause is like a rope or a means, and *subul* (paths) are also mentioned, and it is said that its meaning is: everything by which one reaches something else.⁽¹⁾

In the terminology of Islamic jurists, it is said: causes are the plural of cause, and it is the apparent, well-defined description that leads to the ruling, and it is expressed as that whose existence necessitates the existence of the ruling and whose absence necessitates its absence.⁽²⁾

In the terminology of legal jurists, the cause comes with multiple meanings in laws and regulations, depending on the context, the compound sentence, and the legal branch to which it belongs. In civil law, the cause is defined as: “the purpose or objective behind the contract or obligation.”⁽³⁾

They also define the *motivating cause* as: the source that led to the obligation, whether it is a contract, a unilateral will, or a harmful act, or a beneficial act, or a legal provision.⁽⁴⁾ Other definitions also appeared that are far from the purpose of the research, and perhaps the comprehensive definition between the research objective and the various definitions of the term cause is that the cause is something that has an effect.

As for the definition of *nullity* linguistically: it is said that it is derived from the saying “batala” (to become void), and the origin of the word is from the root letters *bā’*, *tā’*, and *lām*, which indicate the disappearance of something and its invalidity. It is said: “batala the thing” meaning it became void, invalid, and ineffective. The devil is called false because he has no real substance to his actions, and everything from him has no basis or reliance.⁽⁵⁾

As for the definition of *nullity* in the terminology of Islamic jurists, it differs according to the category under which it falls. In acts of worship, it is defined as: the non-recognition of the act of worship as if it did not occur, such as praying without ablution.⁽⁶⁾

In transactions, according to the Hanafi definition, it is said: that it occurs in a manner that is not legislated in its essence or its description.⁽⁷⁾

According to the majority (non-Hanafi), nullity is defined as: that the transaction occurs in a manner that is not legitimate in its essence or its description, or both.⁽⁸⁾

This means that the Hanafis require that both the essence and the description be non-legitimate together, whereas the majority consider that it is sufficient for illegitimacy to exist in either the essence or the description alone.

From this, it is concluded that the majority combine corruption and nullity into one concept, while the Hanafis distinguish between them⁽⁹⁾.

9. See: Taj Al-‘Arus min Jawahir Al-Qamus, by Muhammad bin Muhammad bin Abdul Razzaq Al-Husayni, Abu Al-Fayd, known as Al-Murtada Al-Zabidi, vol. 2, pp. 37–38, verified by a group of scholars, Dar Al-Hidaya.
10. Nihayat Al-Muhtaj ila Sharh Al-Minhaj, by Shams Al-Din Muhammad bin Abi Al-Abbas Ahmad bin Hamza Shihab Al-Din Al-Ramli, vol. 8, p. 108, Dar Al-Fikr, Beirut, latest edition, 1404 AH – 1984.
11. Legal Dictionary, Arabic Language Academy, Cairo, p. 100, General Authority for Amiri Press Affairs, 1420 AH – 1999.
12. Legal Dictionary, previous reference, p. 101.
13. Maqayis Al-Lughah by Ahmad bin Faris bin Zakariya Al-Qazwini Al-Razi, Abu Al-Husayn, vol. 5, p. 258, verified by Abdul Salam Muhammad Harun, Dar Al-Fikr, 1399 AH – 1979.
14. Kuwaiti Encyclopedia of Jurisprudence, a group of authors, vol. 8, p. 106, issued by the Ministry of Awqaf and Islamic Affairs, Kuwait, from 1404 AH to 1427 AH.
15. Kuwaiti Encyclopedia of Jurisprudence, previous reference, vol. 8, p. 106.
16. Kuwaiti Encyclopedia of Jurisprudence, previous reference, vol. 8, p. 107.
17. See: Kuwaiti Encyclopedia of Jurisprudence, previous reference, vol. 8, pp. 106–107.

As for the definition of *nullity* in civil law, it is stated as:

“A sanction resulting from the violation of a condition of the validity or formation of the contract, which leads to the dissolution of the contractual bond and the consideration of the contract as non-existent.”⁽¹⁾

Applying this definition to the term nullity in our research, we find that it can share the following meaning:

Nullity is a consequence resulting from the violation of an essential legal condition, and its effect is the elimination and removal of the arbitration award.

As for the definition of *system* linguistically, it is stated in Arabic language that the term *system* carries multiple meanings. It comes with meanings such as: arrangement, coordination, organization, composition, order, consistency, and sequence. ⁽²⁾ These meanings are close to what is intended in this research, as it refers to the organization of texts within a system that combines them in a coherent manner, regulating people’s conduct in an orderly way.

As for the definition of *system* in the terminology of Islamic jurisprudence, the term appears in multiple contexts depending on each field and discipline, and it takes on a specialized meaning according to its usage. Among the terminological meanings mentioned in books of Islamic jurisprudence, the system is defined as:

“A set of rules and provisions that regulate a specific aspect of human life, and the community is obligated to respect and implement them.”⁽³⁾

As for the definition of *system* in legal terminology, jurists distinguish between two meanings: a general meaning and a specific meaning.

In the general meaning, system is defined as:

“A set of abstract general rules that regulate the behavior of individuals in society in a just manner, guaranteeing freedoms, achieving equality, justice, and the public good, and enforced by the state even by coercion if necessary.”⁽⁴⁾

In the specific meaning, system is defined as:

“A specific rule or a group of rules enacted by the legislative authority to regulate a particular matter within a specific field.”⁽⁵⁾

1. Legal Dictionary, previous reference, p. 64.
 2. It is said: “Order (al-nazm): composition; he arranged it in order and organization; and pearls are arranged on a string.” It is also said: “The system (al-nizam) is what things are arranged upon, like a thread or something similar, and each branch derives from it.” It is also said: “The origin of the system is its structure, and the plural is systems (anzimah) and organizations.” It is also said: “There is no order for something, meaning it does not proceed properly.” It is also said: “System means arrangement.” It is also said: “The system is a contract of jewels and similar things, and the system also refers to guidance and conduct.” It is said: “There is no order for something if it has no guidance or proper alignment.” See: Lisan al-Arab by Ibn Manzur, Jamal al-Din Ibn Manzur al-Ansari al-Ruwaifi’i al-Ifriqi, vol. 12, p. 578, Dar Sader, Beirut, 3rd edition, 1414 AH. See also: Taj al-‘Arus, previous reference, vol. 33, pp. 496–497.
 3. Economic System in Islam, by Dr. Omar Al-Marzouqi, Dr. Abdullah Al-Saidi, Dr. Abdullah Al-Nasser, Dr. Ahmed Al-Harbi, and Dr. Mohammed Al-Muqrin, p. 12, Maktabat Al-Rushd, 5th edition, 1431 AH – 2010.
 4. Brief Introduction to the Study of Systems, by Dr. Adel Al-Jubail, p. 14, Dar Al-Nashr Al-Dawli, Riyadh, 1st edition, 1439 AH – 2018.
 5. Previous reference, p. 14.
-

As for the definition of *arbitration* linguistically in the Arabic language: it comes with the meaning of prevention, and based on this meaning, the source of arbitration is derived from the word “judgment.”⁽¹⁾

In the terminology of Islamic jurists: their definition is close to our subject, as they state:

“It is the agreement of two disputing parties to appoint a judge whom they accept to resolve their dispute and claim.”⁽²⁾

In the terminology of legal jurists, it is said:

“Commercial arbitration is the presentation of disputes related to commercial matters before tribunals chosen by the disputing parties, where the decision issued in the dispute is considered a final judgment.”⁽³⁾

In the terminology of arbitration centers, it is stated:

“An agreement to resolve disputes that have arisen or may arise between parties in a specific legal relationship, by appointing arbitrators chosen by the parties to the dispute, instead of resolving it through the competent judiciary.”⁽⁴⁾

It is also stated:

“A method internationally recognized for settling disputes outside the judicial system of the state.”⁽⁵⁾

It is further stated:

“A system through which disputes—especially commercial disputes between businesspeople—can be resolved by neutral individuals instead of courts.”⁽⁶⁾

In the terminology of the Saudi Arbitration Law⁽⁷⁾, arbitration is defined as:

“The arbitral tribunal: the sole arbitrator or a panel of arbitrators who decide the dispute referred to arbitration.”⁽⁸⁾

Based on the above, it can be said that what is meant by arbitration in this research title is:

“The statement of the legal and statutory provisions in the cases that the Saudi regulator has specified for the annulment of an arbitration award.”

It is worth noting that some legal scholars define the action for annulment of an international arbitration award as:

“An original declaratory action filed by the party against whom the award is issued, before the competent court, according to the law agreed upon by the parties, if one of the grounds for annulment stipulated in that law is met.”⁽⁹⁾

After defining the terms of the research title individually and collectively, we move to the causes or cases that result in the annulment of the arbitration award, as follows:

1. It is said: “(ḥ-k-m): the letters ḥā, kāf, and mīm have one root, which is prevention. The first of that is judgment, and it is prevention from injustice. The judge (*ḥākim*) is so called because he prevents it. It is said: the she-camel judged (*ḥakamat*) the rope, and it is said: the experienced man is attributed to wisdom. It is also said: ‘I entrusted the matter to him.’ And the arbitrator (*muḥakkim*) is attributed to wisdom. It is mentioned in poetry with the meaning: ‘Your rule among us and your admonition is truthful...’ See: *Maqayis al-Lughah*, previous reference, vol. 2, p. 91.
2. *Al-Qamus al-Fiqhi: Lughah wa Istilahan*, by Sa‘di Abu Jayb, p. 96, Dar Al-Fikr, Damascus, 2nd edition, 1408 AH – 1988.
3. *Legal Dictionary*, previous reference, p. 419.
4. Saudi Center for Commercial Arbitration – official website:
<https://www.sadr.org/ADRSservice-arbitration-arbitration-FAQs>
5. Cairo Regional Center for International Commercial Arbitration – official website:
<https://crica.org/ar/arbitration>
6. Sharjah International Commercial Arbitration Centre – official website:
<https://www.tahkeem.ae/ar/arbitration>
7. Issued by Royal Decree No. (M/34) dated 24/5/1433 AH, and published in Umm Al-Qura Newspaper (official gazette) No. (4413) dated 8/7/1433 AH corresponding to 28/5/2012.
8. Article One, official website of the Bureau of Experts at the Council of Ministers, previous reference.
9. “Annulment Action of Arbitration Award in Algerian Law,” by Dr. Biltous Fathi and Prof. Allous Saber, p. 244, published in *Al-Mi‘yar Journal*, Faculty of Fundamentals of Religion, Emir Abdelkader University for Islamic Sciences, Algeria, Vol. 26, Issue 6, year 2022.

First Topic: Causes Related to the Arbitration Agreement

Introduction and Division:

The causes related to the arbitration agreement arise in what is called an annulment action of the arbitration award. The arbitration system specifies the matters that fall under annulment of arbitration awards, and the competent court of appeal is entrusted with considering the dispute.⁽¹⁾

Some legal scholars consider that the nature of an annulment action is a special and precautionary action. They believe that the causes leading to annulment determine the nature and form of this action, as follows:

1. The court ⁽²⁾ must determine that it has general jurisdiction.
2. The grounds of annulment must be limited to those specified.
3. Filing an annulment action is a right guaranteed to the parties to the dispute on an equal basis according to the system. ⁽³⁾

In this topic, we explain the legal and statutory provisions related to the causes connected with the arbitration agreement. The statutory basis for these causes is found in Article (50) of the Arbitration Law, which states ⁽⁴⁾

“An annulment action of an arbitration award shall not be accepted except in the following cases:”

- a) If no arbitration agreement exists, or if the agreement is void, voidable, or has expired due to the lapse of its term.
- b) If one of the parties to the arbitration agreement lacked legal capacity at the time of concluding it, according to the system governing such capacity.

The arbitration agreement is defined as:

“An agreement between two or more parties to submit all or some disputes that have arisen or may arise between them in relation to a specific legal relationship—whether contractual or non-contractual—to arbitration.”

The arbitration agreement may take the form of an arbitration clause in a contract or a separate arbitration agreement.⁽⁵⁾

Accordingly, some legal scholars believe that the arbitration agreement has a contractual nature. Based on this contractual nature, it is not permissible to compel any party to resort to arbitration. Therefore, an arbitral tribunal cannot consider a dispute in the absence of a written arbitration agreement, and the judiciary will not consider a dispute that contains an arbitration agreement.

1. Article (8) of the Arbitration Law states:
“The competent court for hearing an annulment action of an arbitration award is the court designated by this law, and jurisdiction shall lie with the court of appeal originally competent to hear the dispute.”
2. If the arbitration is international commercial arbitration, whether conducted inside or outside the Kingdom, jurisdiction shall lie with the court of appeal originally competent to hear the dispute in Riyadh, unless the parties to the arbitration agree on another court of appeal within the Kingdom. Source: Official website of the Bureau of Experts at the Council of Ministers, previous reference.
3. It should be noted that some legal commentators use the term “court” to refer to the arbitral tribunal. Therefore, the researcher must exercise caution in understanding the context and placing the term according to its proper meaning. In this context, the researcher believes that what is meant by the term “court”—according to the author cited—is the judiciary and not the arbitral tribunal.
4. See: *Annulment Action of Arbitration Award in Algerian Law*, previous reference, p. 244.
5. Issued by Royal Decree No. (M/34) dated 24/5/1433 AH.
6. This is the text of Article (1) of the Arbitration Law issued by Royal Decree No. (M/34) dated 24/5/1433 AH, published on the official website of the Bureau of Experts at the Council of Ministers:
<https://laws.boe.gov.sa>

A written and documented arbitration agreement, unless the parties to the dispute waive the arbitration agreement explicitly or implicitly.⁽¹⁾

The arbitration agreement, whether it is in the form of an arbitration clause or an arbitration agreement, is the basis of arbitration. Arbitration is based on the will of the parties, and its rules and procedures are established according to their agreement. It removes the dispute from the jurisdiction of the state courts and assigns it to arbitration. Accordingly, it is not logical to impose arbitration on the parties without an arbitration agreement.⁽²⁾

The grounds for annulment related to the arbitration agreement are multiple, including the following:

First Cause: Absence of an Arbitration Agreement

The absence of an arbitration agreement results in either:

1. The parties to arbitration do not agree to resolve any dispute, whether included in the arbitration agreement or not, through arbitration.
2. The parties to arbitration refrain from submitting the dispute to arbitration and instead resort to another method of dispute resolution without withdrawing from the arbitration agreement. ⁽³⁾

The absence of an arbitration agreement leads to the nullity of arbitration, and may reach the level of non-existence. It is considered nullity of the procedural description of arbitration, and the judgment is null for violation of public order. Thus, the court of appeal may decide on its own initiative, even if none of the parties raises it before the court.⁽⁴⁾

The cause of nullity due to the absence of an arbitration agreement is established when a party denies the existence of the arbitration agreement, and the other party cannot prove its existence. The arbitration agreement is not established by inference or presumption. Whoever claims its existence must prove it, and the other party must accept it by consent.

The arbitration agreement must be issued by someone who has the authority to issue it and has the capacity to act. If it is issued by someone who does not have the authority or capacity, the arbitration agreement is considered non-existent.⁽⁵⁾

Accordingly, if it is proven that the agreement was issued by someone who is not competent to issue an arbitration agreement, or if there is no valid arbitration agreement, then the arbitration award is annulled.

-
1. See: Commercial Arbitration (Alternative Means for Resolving Disputes in the Kingdom of Saudi Arabia), with an analytical study of selected judicial rulings, by Prof. Dr. Saad Al-Din Al-Dibani and Dr. Alaa Al-Din Eid Atta, p. 244, Dar Al-Kitab Al-Jami'i, Riyadh, 1st edition, 1444 AH – 2023.
 2. See: Annulment Action of Arbitration Award in Algerian Law, previous reference, p. 345. See also: Annulment Action of Arbitration Award, by Amer Abdullah Al-Balushi, p. 109, a thesis submitted to complete the requirements for obtaining a Master's degree in Private Law, College of Law, Abu Dhabi University, 2018.
 3. See: Annulment Action of Arbitration Award, previous reference, p. 20.
 4. See: Annulment Action of Arbitration Award, previous reference, p. 20.
 5. See: Understanding the Explanation of the Arbitration Law, by Sheikh Abdullah bin Muhammad Al-Khunein, p. 190, Dar Al-Hadara, Riyadh, 1st edition, 1441 AH – 2020. See also: Judicial Oversight over Arbitration in the Kingdom of Saudi Arabia, by Dr. Abdullah bin Muhammad Abu Al-Khail, pp. 209–210, research published in Qada Journal, Issue 1, a refereed academic journal, Saudi Judicial Scientific Society, Imam Muhammad bin Saud Islamic University, Riyadh. See also: Annulment Action of Arbitration Award in Algerian Law, previous reference, p. 345.
-

The answer: It is not sufficient, and it is not acceptable to rely on it alone; rather, it must be proven that the arbitration agreement was validly issued by an authorized agent or representative, or the like, from the parties to the agreement.⁽¹⁾

Some legal commentators believe that the party relying on this arbitration award must prove the existence of the arbitration agreement in accordance with the applicable procedural law.⁽²⁾

Some legal commentators also believe that the laws have explicitly addressed this nullity in the following cases:

1. If the parties to the contract agree to rescind the contract, or if the contract is rescinded entirely including the arbitration clause, or if a judgment is issued annulling the contract, then the arbitration clause does not remain attached to the contract, whether in existence or non-existence. Therefore, if one of the parties files a case before the arbitral tribunal after the contract has been rescinded in the manner mentioned, then the award issued by the arbitral tribunal is considered void for this reason.⁽³⁾
2. If the contract that includes the arbitration clause is absolutely void, then the contract itself is considered non-existent, and no effects result from it. The judgment declaring the nullity of this contract is merely declaratory and does not create the nullity; therefore, the arbitration clause becomes void as well.⁽⁴⁾
3. If an arbitration agreement exists, but the arbitration award addresses matters that are not covered by the arbitration agreement.⁽⁵⁾
4. If an arbitration agreement exists,⁽⁶⁾ but it is not in writing. This issue will be discussed later, as there is a differing opinion on this matter, where another view considers this case a cause of nullity due to the invalidity of the arbitration agreement.
5. If one of the parties to arbitration relies on a document that is not considered an arbitration agreement.⁽⁷⁾
6. If the agreement claimed to be an arbitration agreement is in fact merely an agreement to appoint an expert and not an arbitrator in the dispute.⁽⁸⁾

Some legal commentators believe that the absence of an arbitration agreement should not be considered a cause of nullity of the arbitration award. Their reasoning is that the absence of an arbitration agreement means the absence of an arbitration award itself. Arbitration arises when a dispute occurs and the parties agree to resolve it through arbitration. If there is no agreement to resort to arbitration, then this necessarily means the absence of an arbitration award.⁽⁹⁾

1. See: *Understanding (Sharh)*, previous reference, p. 290.
 2. See: *Annulment Action of Arbitration Award in Algerian Law*, previous reference, p. 345.
 3. See: *Commercial Arbitration*, previous reference, p. 245.
 4. See: *Commercial Arbitration*, previous reference, p. 245.
 5. See: *Annulment Action of Arbitration Award*, previous reference, p. 20.
 6. See: *Annulment Action of Arbitration Award*, previous reference, p. 20.
 7. See: *Annulment Action of Arbitration Award*, previous reference, p. 20.
 8. See: *Annulment Action of Arbitration Award*, previous reference, p. 20.
 9. See: *Annulment Action of Arbitration Award*, previous reference, p. 21.
-

The statutory basis for this legal ruling is what is stated in Article (50), paragraph (1) of the Arbitration Law, which provides: “An annulment action of an arbitration award shall not be accepted except in the following cases: (...)”

Some Shafi‘i jurists have stipulated four conditions for the validity of the arbitration award, including: the existence of an agreement between the parties to resort to arbitration, the realization of mutual consent in appointing the arbitrator in the dispute, and the continuation of this consent until the issuance of the award.⁽¹⁾

Second Cause: Nullity or Voidability of the Arbitration Clause or Agreement

The arbitration agreement is subject to the same rules as other agreements in terms of formation and validity conditions. Therefore, all the pillars and general conditions required for the formation of contracts must be fulfilled in the arbitration agreement, as well as the rules governing arbitration.

Thus, the element of consent must be present, along with the subject matter and the cause, and the formal requirement must also be fulfilled. If any condition of formation or any pillar is missing, the agreement is considered void. If the arbitration agreement is void, then the arbitration award issued based on it is also void.

The cause of nullity here refers to a defect or invalidity in the arbitration agreement itself. Likewise, if one of the conditions of validity is missing, the agreement becomes voidable according to the general theory of obligations.⁽²⁾

Among the cases in which the arbitration agreement is void are the following:

- If one of the parties to the arbitration agreement who consented to the arbitration clause lacks legal capacity, such as a minor who has not reached the age of discernment, an insane person, or someone declared legally incompetent due to foolishness or insolvency, or a guardian or trustee who acts beyond his authority, or if such a person was not authorized by the court or competent authority to enter into the arbitration agreement.

Legal capacity for natural persons is established upon reaching the age of majority and having sound judgment. A person who is not legally incompetent due to insanity, foolishness, or unconsciousness is considered fully competent.⁽³⁾

Some legal commentators have clarified that acts issued by an insane or incompetent person before the issuance of a judicial interdiction order may still be considered valid unless insanity or incompetence existed at the time of the agreement or was known to the other contracting party.

Therefore, invoking nullity due to lack of capacity is limited to the party whose interest is affected, and not to the other party.

1. See: Al-Hawi Al-Kabir fi Fiqh Madhhab Al-Imam Al-Shafi‘i (Sharh Mukhtasar Al-Muzani), by Abu Al-Hasan Ali bin Muhammad Al-Basri Al-Baghdadi, known as Al-Mawardi, vol. 16, p. 325, verified by Ali Muhammad Mu‘awwad and Adel Ahmad Abdul-Mawjoud, Dar Al-Kutub Al-‘Ilmiyyah, Beirut, 1st edition, 1419 AH – 1999.

2. See: Annulment Action of Arbitration Award in Algerian Law, previous reference, p. 346. See also: Annulment Action of Arbitration Award, previous reference, p. 21.

3. It is stated in Article (10), paragraph (1) of the Arbitration Law:
“It is not valid to agree to arbitration except by a person who has the capacity to dispose of his rights, whether a natural person or someone representing him, or a legal person.”
Source: Official website of the Bureau of Experts at the Council of Ministers, previous reference.

Some legal commentators interpret the requirement of legal capacity for arbitration parties at the time of concluding the arbitration agreement as meaning that the arbitration agreement includes a waiver by the contracting party of his right to bring the dispute before state courts, which entails relinquishing the guarantees provided by judicial systems for individuals.

Some of them also represent cases where the arbitration agreement is invalid due to the absence of writing. ⁽¹⁾Article (9) of the Arbitration Law stipulates the requirement that the arbitration agreement be in writing, and that the absence of writing results in nullity. The text of the article states:

“(2) The arbitration agreement must be in writing; otherwise, it is void.”

The arbitration clause or agreement may also be voidable if the contract is concluded under deception or fraud, or if it is affected by a defect that renders it voidable. Some scholars believe that this cause exists if one of the conditions of validity is missing.

They also consider deception as a form that affects the arbitration agreement, making it subject to annulment.⁽²⁾

The statutory ⁽³⁾basis for this legal ruling is what is stated in Article (50), paragraph (1) of the Arbitration Law, which provides:⁽⁴⁾

“An annulment action of an arbitration award shall not be accepted except in the following cases:

- (a) If there is no arbitration agreement, or if the agreement is void, voidable, or has expired due to the lapse of its term.
- (b) If one of the parties to the arbitration agreement lacked legal capacity at the time of concluding it, according to the law governing such capacity.”

Third Cause: Expiry of the Arbitration Clause or Agreement

The expiry of the arbitration agreement is defined as: the termination of all arbitration procedures, even before their commencement, and the disappearance of all resulting effects, as if the arbitration agreement never existed. The relationship between the parties returns to what it was before resorting to arbitration, and the parties may again resort to arbitration if they agree on that.

Some legal commentators object to considering the expiry of the arbitration agreement as a cause for annulment of the arbitration award. Their reasoning is that the expiry of the arbitration agreement does not necessarily mean the invalidity of the arbitration award.

They also argue that the legislator’s objective in regulating arbitration is to reduce judicial disputes and relieve courts, which contradicts treating expiry as a cause of annulment.⁽⁵⁾

Nevertheless, the expiry of the arbitration clause or agreement is considered a cause of annulment of the arbitration award according to the explicit statutory provision in Article (50), paragraph (1), which states:

“An annulment action of an arbitration award shall not be accepted...”

-
- 1. See: Understanding (Sharh), previous reference, p. 290. See also: Commercial Arbitration, previous reference, p. 245. See also: Judicial Oversight over Arbitration, previous reference, pp. 209–210. See also: Annulment Action of Arbitration Award in Algerian Law, previous reference, p. 346.
 - 2. See: Understanding (Sharh), previous reference, p. 290. See also: Commercial Arbitration, previous reference, p. 245. See also: Judicial Oversight over Arbitration, previous reference, pp. 209–210. See also: Annulment Action of Arbitration Award in Algerian Law, previous reference, p. 346.
 - 3. Definition of deception: it is misleading through a false statement or act to induce one of the contracting parties to enter into the contract. See: Understanding (Sharh), previous reference, p. 290.
 - 4. See: Understanding (Sharh), previous reference, p. 290.
 - 5. See: Annulment Action of Arbitration Award, previous reference, pp. 21–22.
-

...except in the following cases:

(a) If there is no arbitration agreement, or if this agreement is void, voidable, or has expired due to the lapse of its term.

If the arbitration agreement exists and is valid, then it is not appropriate to consider the arbitration award void. This situation arises when the parties agree on an arbitration clause or agreement specifying the duration of arbitration, and this duration expires without the issuance of an arbitration award.

In this case, the arbitration proceedings must be terminated upon the expiry of the agreed period. If no agreement exists regarding the duration, then the period specified by the law applies. The Arbitration Law stipulates that the arbitral tribunal must issue its award within the agreed period. If no agreement exists, the award must be issued within twelve months from the commencement of arbitration proceedings.

Accordingly, an annulment action may be raised after the expiry of this period, as the arbitration proceedings would have become invalid due to the expiration of the arbitration term without the issuance of an award by the arbitral tribunal.⁽¹⁾

Some legal commentators believe that the arbitral tribunal must rule on procedural objections within the arbitration period, and that such objections must be raised by the concerned party at the beginning of the proceedings. Otherwise, the right to raise them is forfeited.⁽²⁾

However, the researcher considers this opinion incorrect, because it is not possible to rule on a defense unless its grounds are fulfilled. It is not sufficient to raise a defense at the beginning if arbitration procedures have not yet started or if the period has not yet expired.

Some commentators on Algerian law consider that one of the causes of annulment of an arbitration award is when the arbitral tribunal rules without the existence of a valid arbitration agreement, or under a void arbitration agreement, or beyond the scope of the arbitration agreement.⁽³⁾

They also consider that the Algerian legislator placed the absence of an arbitration agreement as the primary cause among the grounds of nullity, since the arbitration agreement is the basis of the arbitrators' authority. The annulment action aims to verify the existence of this authority and the extent of its validity, even in relation to jurisdiction, as the existence of jurisdiction depends on the existence of the arbitration agreement.

-
1. See: Understanding (Sharh), previous reference, p. 291. See also: Commercial Arbitration, previous reference, p. 246. See also: Judicial Oversight over Arbitration, previous reference, pp. 209–210. See also: Annulment Action of Arbitration Award in Algerian Law, previous reference, p. 346. See also: Annulment Action of Arbitration Award, previous reference, pp. 21–22.
 2. See: Understanding (Sharh), previous reference, p. 291.
 3. Application of the text of Article (106), paragraph (1) of Law No. 08-09 dated 25 February 2008 of the Algerian Civil and Administrative Procedures Code, which states:
“If arbitration is conducted without an arbitration agreement, or based on a void agreement, or after the expiry of the agreement period...”
See: Annulment Action of Arbitration Award in Algerian Law, previous reference, p. 345.
-

The arbitral tribunal has the authority to decide on the validity of its jurisdiction, because its authority in this regard is not absolute and is subject to judicial review.⁽¹⁾⁽²⁾

Second Topic: Causes Related to the Arbitral Tribunal

Introduction and Division:

The Arbitration Law imposes specific procedures regarding the formation, composition, and appointment of arbitrators. The law provides that any award issued in violation of these provisions shall be subject to annulment, as will be detailed later.

The law also regulates the practice of arbitration by arbitrators, including cases where they may be prohibited from hearing or deciding a dispute. Any violation of these rules may result in the annulment of the arbitration award.

An arbitration award is also considered void if it addresses matters not covered by the arbitration agreement or clause.

The causes that lead to the annulment of the arbitration award in this context include the following:

First Cause: Improper Formation of the Arbitral Tribunal

The formation of the arbitral tribunal refers to the number of arbitrators participating in the arbitration process. The number may be one or more, depending on the arbitration agreement and the applicable law.⁽³⁾

The parties have full freedom to choose the number of arbitrators, provided that the number is odd, in accordance with the applicable legal provisions.⁽⁴⁾

The parties may appoint arbitrators directly by naming a specific arbitrator, or indirectly by agreeing on a method of appointment, or by referring the appointment to an independent authority responsible for appointing arbitrators or forming the arbitral tribunal.⁽⁵⁾

The law requires that an annulment action be accepted if the arbitral tribunal is not formed in accordance with the agreed-upon method.

Some legal scholars believe that waiver of this requirement, whether expressly or implicitly, is valid and does not invalidate the arbitration award, provided that the necessary conditions are met.⁽⁶⁾

1. See: *Annulment Action of Arbitration Award in Algerian Law*, previous reference, p. 345.

2. The Egyptian Civil and Commercial Arbitration Law, in Article (53), mentioned the grounds for annulment of arbitration awards and included causes related to the arbitration agreement. It states:

“An annulment action of an arbitration award shall not be accepted except in the following cases:

(a) If there is no arbitration agreement, or if the agreement is void, voidable, or has expired due to the lapse of its term.

(b) If one of the parties to the arbitration agreement lacked legal capacity at the time of concluding it, according to the law governing such capacity.”

Issued by Law No. 27 of 1994, as amended, Cairo 2021, publications of the Cairo Regional Centre for International Commercial Arbitration.

3. It is stated in Article (13) of the Arbitration Law:

“The arbitral tribunal shall be composed of one or more arbitrators, provided that the number is odd; otherwise, the arbitration shall be void.”

Source: Official website of the Bureau of Experts at the Council of Ministers, previous reference.

4. See: *Annulment Action of Arbitration Award*, previous reference, p. 27.

5. See: *Understanding (Sharh)*, previous reference, p. 291. See also: *Commercial Arbitration*, previous reference, p. 248. See also: *Judicial Oversight over Arbitration*, previous reference, pp. 209–210. See also: *Annulment Action of Arbitration Award in Algerian Law*, previous reference, p. 347.

6. See: Al-Khunein, previous reference, p. 291. A brief biography of Sheikh Al-Khunein: he was a member of the Council of Senior Scholars and a member of the Permanent Committee for Research and Fatwas, and a judge at the Court of Appeal in Riyadh. Source: Official website of the Ministry of Justice:

<https://adlm.moj.gov.sa>

The researcher believes that the judiciary, through the stability of its rulings on this issue, does not accept waiver by the parties of arbitration regarding the requirement that the number of arbitrators be odd. This is evident from the absence of any judicial rulings allowing waiver of this condition in this matter. Examples of this will be presented later among arbitration cases.

This condition is considered part of public order, and it falls within the scope of Sharia policy, which guarantees the regulator the authority to impose rulings that serve the public interest and do not contradict Islamic Sharia.

The statutory basis for this legal ruling is what is stated in Article (50), paragraph (1) of the Arbitration Law, which provides: “An annulment action of an arbitration award shall not be accepted except in the following cases: (1)(...) if the arbitral tribunal is formed in violation of this law or the agreement of the parties.”

Among the judicial applications confirming this cause is a ruling issued by the Commercial Court of Appeal in Riyadh. The judgment states: “The arbitration award issued on 9/4/1443 AH was annulled because it was issued by an arbitral tribunal that was not properly constituted, as the award was issued by two arbitrators, which violates Article (50), paragraph (1) of the Arbitration Law.”(2)

From this judicial ruling, we conclude the following causes:

1. The Sharia basis for the concept of policy is what is mentioned in the hadith of Abu Huraira (may Allah be pleased with him), from the Prophet (peace and blessings be upon him), who said:
“The Children of Israel used to be governed by prophets; whenever a prophet died, another prophet succeeded him. There will be no prophet after me, but there will be caliphs, and they will be many.” They said: “What do you command us?” He said: “Fulfill the pledge of allegiance to the first, then the next, and give them their rights, for Allah will question them about what He entrusted to them.”
Agreed upon. See: *Al-Jami‘ Al-Musnad Al-Sahih Al-Mukhtasar min Umur Rasul Allah ﷺ wa Sunanihi wa Ayyamihi (Sahih Al-Bukhari)*, by Imam Muhammad bin Isma‘il Al-Bukhari, verified by Muhammad Zuhair bin Nasir Al-Nasir, Dar Tawq Al-Najah, 1st edition, 1422 AH. Also: *Al-Musnad Al-Sahih Al-Mukhtasar min Naql Al-‘Adl ‘an Al-‘Adl ila Rasul Allah ﷺ (Sahih Muslim)*, by Imam Muslim bin Al-Hajjaj, verified by Muhammad Fuad Abdul-Baqi, Dar Ihya’ Al-Turath Al-‘Arabi, Beirut.

The explanation of the term “policy” in this hadith states: “Policy is to manage affairs in a manner that brings benefit.” See: *‘Umdat Al-Qari Sharh Sahih Al-Bukhari*, by Abu Muhammad Mahmoud bin Ahmad Al-Ayni, vol. 16, p. 43, Dar Ihya’ Al-Turath Al-‘Arabi, Beirut. Also: *Mirqat Al-Mafatih Sharh Mishkat Al-Masabih*, by Ali bin Sultan, vol. 6, p. 2398, Dar Al-Fikr, Beirut, 1st edition, 1422 AH – 2002.

In defining Sharia policy, scholars have stated that it refers to managing the general affairs of the Islamic state in a way that ensures achieving benefits and preventing harm without violating the principles or general rules of Sharia, even if such policies are not explicitly stated by the mujtahid imams.

In other words, it is the following of the early righteous generations in prioritizing public interest and addressing new matters. It includes all matters required for the governance of the state, whether constitutional, financial, legislative, judicial, or administrative, whether internal or external.

The basis of Sharia policy is reflected in regulating public affairs and establishing rules consistent with Sharia principles.

This ruling was issued by the Commercial Court of Appeal in Riyadh under decision No. 437/804/1437 dated 4/4/1437 AH. The court held that the arbitration award should be annulled because it was issued in violation of the Arbitration Law.

After reviewing the arbitration award, it was found that it was issued by two arbitrators, which constitutes a violation of the Arbitration Law. Article (13) of the Arbitration Law requires that the number of arbitrators be odd; otherwise, the arbitration is void.

The arbitral tribunal had issued its award with two arbitrators only, which contradicts the law. Therefore, the award is considered void.

The court further noted that if an arbitrator withdraws, the other party may file a claim requesting the appointment of a replacement arbitrator.

The ruling stated:

“First: The arbitration award issued on 9/4/1443 AH is annulled.

Second: The claimant is obligated to pay the defendant an amount of (...).”

All praise is due to Allah, and peace and blessings be upon our Prophet Muhammad and upon his family and companions.

Source: Official legal portal of the Ministry of Justice:

<https://laws.moj.gov.sa>

Collection of judicial rulings issued in annulment actions of arbitration awards, compiled by: Dr. Falah Al-Zahrani.

1. The judicial panel believes that the issuance of the arbitration award must comply with the provisions of the law governing the formation and composition of the arbitral tribunal.
2. The judicial panel has closed the door to discretion (ijtihad) in matters related to the formation and composition of the arbitral tribunal in the presence of explicit legal texts.
3. The judicial panel ruled that the party harmed by the withdrawal of the arbitrator has the right to file a claim for compensation before the competent court, and it understood from this ruling the establishment of civil liability on the arbitral tribunal or the arbitrator who withdrew.
4. The judicial panel ruled that the arbitral tribunal erred and violated the law by issuing the arbitration award through an improperly constituted tribunal, and it did not accept the justifications and interpretations provided by the arbitral tribunal for issuing the award in this manner.

Second Cause: Failure to Appoint Arbitrators in Accordance with the Law

The law also provides that an annulment action of the arbitration award shall be accepted if the arbitrators are not appointed in accordance with the agreed method or the provisions of the law.⁽¹⁾

Examples of this include:

- The arbitral tribunal is not formed with an odd number of arbitrators.
- The chairman of the tribunal does not possess the qualifications required by law.

The statutory basis for this is Article (50), paragraph (1), which states:

“An annulment action of an arbitration award shall not be accepted except in the following cases:

(a) If the arbitral tribunal is formed in violation of this law or the agreement of the parties.”

If the arbitrators are appointed in violation of the law or the agreement of the parties, then the appointment is invalid.

This also contradicts Article (14) of the Arbitration Law, which provides that the arbitrator must meet the following conditions:

1. Must have full legal capacity.
2. Must have good conduct and reputation.
3. Must hold at least a university degree in Sharia or legal sciences.

If the arbitral tribunal consists of more than one arbitrator, the chairman must meet these qualifications.

The law does not explicitly require the presence of Sharia qualifications in the arbitrator, although some scholars, such as the Shafi‘i jurists, have required certain conditions for the validity of the arbitration award, including that the arbitrator be qualified for ijtihad (legal reasoning).

The requirement of Sharia qualification in the law may fulfill the condition of legal reasoning, or it may partially fulfill it.⁽²⁾

1. See: Understanding (Sharh), previous reference, p. 291. See also: Commercial Arbitration, previous reference, p. 248. See also: Judicial Oversight over Arbitration, previous reference, pp. 209–210. See also: Annulment Action of Arbitration Award in Algerian Law, previous reference, p. 347.
2. See: Al-Hawi Al-Kabir, previous reference, vol. 16, p. 325.

Some Maliki jurists have stated that arbitration is permissible only if the arbitrator is a just and qualified person capable of exercising independent legal reasoning (ijtihad), or a judge who rules based on the consensus of scholars. It is not valid for an ignorant person to issue a judgment absolutely.⁽¹⁾

Third Cause: Appointment of the Arbitral Tribunal in Violation of the Arbitration Agreement

The law also provides for this cause: the acceptance of an annulment action of the arbitration award if the arbitrators were not appointed in accordance with the agreed method in the arbitration agreement. However, the claimant of nullity may have waived this violation expressly or implicitly by remaining silent despite having knowledge of it.⁽²⁾

The statutory basis for this ruling is what is stated in Article (50), paragraph (1), which provides: “An annulment action of an arbitration award shall not be accepted except in the following cases: (...) if the arbitral tribunal is formed in violation of this law or the agreement of the parties.”⁽³⁾

Fourth Cause: If the Arbitrator Is Prohibited from Hearing or Deciding the Case

The prohibition of an arbitrator refers to the fact that the arbitrator is not permitted to hear or decide a dispute if one of the legally specified grounds for disqualification exists. These grounds are similar to those applicable to judges under the system governing judicial proceedings.⁽⁴⁾

This cause is fulfilled if the arbitrator falls under any of the cases of disqualification and this is accompanied by the lack of acceptance or consent from one of the parties to the dispute regarding the arbitrator or the award.⁽⁵⁾

However, if the parties to the dispute accept the arbitrator despite the existence of a ground for disqualification, the arbitrator is not prevented from proceeding unless another unknown cause exists.

In Islamic jurisprudence, the prevailing view—adopted by the author of *Al-Tafhim*—leans toward not preventing the arbitrator from hearing the case if the parties consent to arbitration, even if a ground for disqualification exists, unless the reason was unknown.

1. Alish said: Arbitration is permissible for a just mujtahid or an ordinary person who judges by consulting scholars, and not for a non-Muslim (kafir) or a disobedient (fasiq), based on the statement of those who consider that a person should not judge while ignorant of the ruling because of the risk involved. See: Manh Al-Jalil Sharh Mukhtasar Khalil, by Muhammad bin Ahmad bin Muhammad Alish, Abu Abdullah Al-Maliki, vol. 8, p. 284, Dar Al-Fikr, Beirut, 1409 AH – 1989.
2. See: Understanding (Sharh), previous reference, pp. 291–292. See also: Commercial Arbitration, previous reference, p. 248. See also: Judicial Oversight over Arbitration, previous reference, pp. 209–210. See also: Annulment Action of Arbitration Award in Algerian Law, previous reference, p. 347.
3. The Egyptian Civil and Commercial Arbitration Law, in Article (53), mentioned the grounds for annulment of arbitration awards and included causes related to the arbitral tribunal. It states:
“An annulment action of an arbitration award shall not be accepted except in the following cases: (...) if the arbitral tribunal is formed or the arbitrators are appointed in a manner contrary to the law or the agreement of the parties.”
4. The corresponding provision in the Arbitration Law is Article (16), paragraph (2), which states:
“An arbitrator shall be prohibited from hearing or deciding the case—even if none of the parties requests it—in the same cases in which a judge is prohibited from hearing cases.”

The corresponding provision in the Law of Sharia Proceedings is Article (94), which states:

“A judge shall be prohibited from hearing a case, even if none of the parties requests it, in the following cases:

- (a) If he is the husband of one of the litigants, or a relative or in-law up to the fourth degree.
- (b) If he has an existing dispute with one of the litigants or his spouse.
- (c) If he is an agent, guardian, trustee, or representative of one of the litigants, or has an interest in the case, or is a witness in it.
- (d) If he has a relationship of kinship or affinity up to the fourth degree with one of the litigants.
- (e) If he has issued a fatwa or pleaded on behalf of one of the litigants, or if he previously acted as a judge, expert, or arbitrator in the same case.”

Source: Official website of the Bureau of Experts at the Council of Ministers, previous reference. See also: Understanding (Sharh), previous reference, p. 122.

See: Understanding (Sharh), previous reference, p. 292.

It is also considered that arbitration is not like the judiciary; therefore, the arbitrator is not prevented from hearing the case unless there is a ground for disqualification, provided that the parties to arbitration consent. This is not the case with the judge, as arbitration is broader than the judiciary in this regard.⁽¹⁾

From the applications in Islamic jurisprudence, it is possible to infer the rulings on this issue in its various branches. For example, some Shafi'i jurists have issued opinions permitting the arbitration of an enemy and the judgment of an enemy against him, provided that the parties to arbitration consent to his judgment.⁽²⁾

There are also opinions among some Maliki jurists permitting arbitration of a woman in matters where her testimony is accepted, provided that the parties to arbitration agree to her judgment. However, some jurists have prohibited the arbitration of a woman in cases where her testimony is not accepted.⁽³⁾

Accordingly, the author of *Al-Tafhim* supports the view that arbitration of an enemy is permissible and that his judgment is valid if the parties consent to it.⁽⁴⁾

The statutory basis for this ruling is that if an arbitration award is issued by an arbitrator in a case where a ground for disqualification exists, it is considered a cause for annulment. This is what is stated in Article (16), paragraph (2), which provides:

“An arbitrator shall be prohibited from hearing or deciding the case—even if none of the parties requests it—in the same cases in which a judge is prohibited from hearing cases.”⁽⁵⁾

Throughout arbitration procedures, it is not permissible for the arbitrator—at any stage of the proceedings—to write or participate in matters that may affect his impartiality or independence, unless he has previously disclosed such matters.

- It is not permissible for the arbitrator to hear or decide the case—even if none of the parties requests it—in the same cases in which a judge is prohibited from hearing cases.
- This ground for disqualification is established automatically if the arbitrator has a relationship or interest that may affect his neutrality or independence, without disclosure to the parties to ⁽⁶⁾

1. See: Al-Khunein, previous reference, pp. 123 and 292. Article (95) of the Law of Sharia Proceedings indicates that the existence of a ground for disqualification is evidence of the invalidity of the judge's ruling, even if the parties to the dispute consent to the judge hearing the case in such a situation. It further states that the judge's action or judgment shall be invalid in the cases mentioned in Article (94) of this law, even if agreed upon by the litigants. If this nullity occurs in a final judgment, the litigant may request the Supreme Court to annul the judgment and to have the case heard before another panel. Source: Official website of the Bureau of Experts at the Council of Ministers, previous reference.
2. Al-Mawardi said: If the enemy rules in favor of his enemy, then his judgment is valid. See: Al-Hawi Al-Kabir, previous reference, vol. 16, p. 328. See also: Tabaqat Al-Shafi'iyyah Al-Kubra, by Taj Al-Din Abd Al-Wahhab bin Taqi Al-Din Al-Subki, vol. 3, p. 280, verified by Mahmoud Muhammad Al-Tanahi and Dr. Abd Al-Fattah Muhammad Al-Hilu, Hajar Printing and Publishing, 2nd edition, 1413 AH.
3. Alish said: If one of the two litigants appoints the other as arbitrator over himself, or over both of them, it is permissible as long as it is not a case of coercion. However, it is not permissible for a person to appoint himself as arbitrator. See: Manh Al-Jalil Sharh Mukhtasar Khalil, previous reference, vol. 8, pp. 283–284.
4. Al-Mawardi said: If arbitration occurs between disputing parties who are not permitted to testify for or against each other—such as a parent and child—then their judgment is not accepted. However, if the arbitrator is someone whose testimony is acceptable for one party but not the other, then his judgment is valid. See: Al-Hawi Al-Kabir, previous reference, vol. 16, p. 323. See also: Tabaqat Al-Shafi'iyyah Al-Kubra, previous reference, vol. 3, p. 280.
5. See: Al-Khunein, previous reference, pp. 126–127.
6. See: Understanding (Sharh), previous reference, p. 292.

Fifth Cause: If the Arbitration Award Decides Matters Not Covered by the Arbitration Agreement

This cause is established if the arbitration award addresses matters that are not included in the arbitration clause or agreement. In such a case, the arbitration award is considered subject to annulment, because the arbitral tribunal’s mandate is limited to resolving the dispute presented to it by the parties to arbitration.

The arbitral tribunal is not permitted to exceed the scope of the agreement, nor does it possess the same authority as the judiciary, which may rule beyond the limits of the claims in certain circumstances.

The general principle is that the judge of the merits may, if possible, separate the issues decided in the arbitration award into those covered by the arbitration agreement and those not covered by it. Accordingly, the nullity applies only to the parts of the award that relate to matters not included in the arbitration agreement.⁽¹⁾

Some legal commentators believe that, for the competent court to accept this ground of annulment, the party invoking nullity must have objected before the arbitral tribunal regarding the tribunal’s decision on matters exceeding the scope of the arbitration agreement, and that this objection must have been made within the time limits specified in the arbitration agreement or during the arbitration proceedings.

If the objection was not made in a timely manner, then it is considered a waiver, unless the violation constitutes a breach of public order. In such cases, the court may examine the issue on its own initiative.

The statutory basis for this ruling is what is stated in Article (50), paragraph (1), which provides:
“An annulment action of an arbitration award shall not be accepted except in the following cases: (...) if the arbitration award deals with matters not covered by the arbitration agreement.”⁽²⁾

However, if it is possible to separate the parts of the award that relate to matters covered by the arbitration agreement from those that are not, annulment shall only apply to the latter parts.⁽³⁾

Among the judicial applications confirming this cause is a ruling issued by the Commercial Court of Appeal in Riyadh. The judgment states:
“First: The arbitration award issued on 8/1/1442 AH is annulled (...) and the reasons for this are...”

1. See: Understanding (Sharh), previous reference, p. 292. See also: Commercial Arbitration, previous reference, p. 243. See also: Judicial Oversight over Arbitration, previous reference, p. 210. See also: Annulment Action of Arbitration Award in Algerian Law, previous reference, p. 347. See also: Annulment Action of Arbitration Award, previous reference, p. 29.

2. See: Annulment Action of Arbitration Award, previous reference, pp. 29–30.

3. The Jordanian Arbitration Law, in Article (49), paragraphs (5) and (6), states the following grounds:
“(5) If the arbitral tribunal is formed or the arbitrators are appointed in a manner contrary to this law or the agreement of the parties.
(6) If the arbitration award deals with matters not covered by the arbitration agreement or exceeds the limits of this agreement. However, if it is possible to separate the parts of the award relating to matters subject to arbitration from those not subject to it, then nullity shall apply only to the latter parts.”
Issued under Law No. 31 of 2001, publications of the Center for Law and Arbitration.

The judgment included that the arbitral tribunal did not apply what is stated in Article (50), paragraph (5), and this supports the conclusion that the court rejected the respondent's argument regarding the invalidity of the agreements. ⁽¹⁾

From this judicial ruling, we conclude the following causes:

1. The judicial panel believes that the arbitral tribunal did not comply with the statutory provision requiring that the arbitration award be limited to matters covered by the arbitration agreement and not exceed them.
2. The judicial panel ruled that the arbitral tribunal erred in its reasoning, and that its interpretation violated the statutory text of Article (50), paragraph (5). The court held that the arbitral tribunal did not examine the claims of the respondent concerning the works and services carried out, based on the agreements, in order to determine whether the condition of mediation—which the arbitration clause required for dispute resolution—had been fulfilled.
3. The judicial panel also found that the arbitral tribunal's reasoning was incorrect and supported its conclusion by stating that the respondent did not raise the issue of invalidity of the agreements, but merely argued that these agreements had not yet entered into force.
4. The judicial panel ruled to annul the arbitration award and to refer the case back to the arbitral tribunal for reconsideration. The researcher believes that this may impose additional financial burdens on the parties to arbitration, including further arbitration fees and the possibility of compensation claims by parties harmed by the arbitration proceedings.

1. This judgment was issued by the Commercial Court of Appeal in Riyadh, under decision No. 487 in case No. 4787 dated 25/8/2021, corresponding to 17/1/1443 AH.

The excerpt from the reasoning of the judgment states:

“Second: Regarding the claim of nullity of the arbitration award dated 10/8/1442 AH, and based on what was presented by the parties in the case facts, the arbitral tribunal rejected the claim of the claimant (the respondent in the annulment action) concerning the invalidity of the three agreements that are the subject of the dispute, without examining the merits of the dispute or determining the claimant's entitlement to what is claimed.

This conclusion was based on the agreements concluded between the parties, including rights and obligations, and the arbitral tribunal relied on the fact that these agreements violated the provisions governing mediation in government contracts. This was based on Article (71) of the Government Tenders and Procurement Law, which states that contracting must be done directly with the contractor authorized to perform the work, and that no intermediary, distributor, or agent shall be considered in the contract.

The contractor must perform the work himself and may not assign it to others, whether in whole or in part, without prior written approval from the contracting authority. However, the contractor remains responsible for performance, even if subcontracting occurs.

Third: The arbitral tribunal did not examine the claim of the claimant (the respondent in the annulment action) concerning the works and services performed under these agreements, in order to determine whether the condition of mediation—stipulated in the arbitration clause for dispute resolution—had been fulfilled.

Fourth: Based on the above, and given that the arbitral tribunal did not adhere to the provisions of Article (50), paragraph (5), which states that an arbitration award shall not address matters not covered by the arbitration agreement, and that the competent court shall consider an annulment action if the arbitration award violates Islamic Sharia or public order in the Kingdom, or exceeds the limits agreed upon by the parties, and that the respondent did not argue the invalidity of the agreements but rather argued that they had not entered into force,

The court concluded that the arbitral tribunal erred in its reasoning and violated the provisions of Article (50), paragraph (5), which states:

“An annulment action of an arbitration award shall not be accepted except in the following cases...”

Therefore, the court ruled as follows:

First: The arbitration award dated 10/8/1442 AH is annulled.

Second: The commercial case No. (...) is dismissed.

And Allah is the granter of success. May peace and blessings be upon our Prophet Muhammad, his family, and companions.

Source: Official legal portal of the Ministry of Justice, previous reference.

Collection of judicial rulings issued in annulment actions of arbitration awards, previous reference.

Third Topic: Causes Related to Arbitration Procedures

Introduction and Division:

The Arbitration Law requires specific procedures in arbitration proceedings. For example: enabling the parties to the dispute to present their defenses and responses, and applying the procedural and substantive rules agreed upon by the parties to the dispute in the arbitration award.

Failure to comply with these procedures leads to the annulment of the arbitration award, as will be detailed below.

The causes that lead to the annulment of the arbitration award, if any of them exist, include the following:

First Cause: Failure to Notify One of the Parties to the Dispute Properly of the Appointment of an Arbitrator or of the Arbitration Proceedings

It should be noted at the outset that the issue here involves two important aspects:
The annulment does not result from the mere failure of a party to present his defense or response; rather, the law restricts annulment to specific cases. If any of these cases are met, the arbitration award becomes void; otherwise, it remains valid.

These causes, which lead to the annulment of the arbitration award, are not exhaustive but include the following:

- a. Failure to properly notify one of the parties to the dispute of the appointment of an arbitrator.
- b. Failure to properly notify one of the parties to the dispute of the arbitration proceedings.
- c. Failure of one of the parties to present his defense for reasons beyond his control.⁽¹⁾

The statutory basis for this ruling is what is stated in Article (50), paragraph (1), which provides:
“An annulment action of an arbitration award shall not be accepted except in the following cases: (...) If a party to the arbitration is unable to present his defense due to failure to notify him properly of the appointment of an arbitrator or of the arbitration proceedings, or for any other reason beyond his control.”⁽²⁾

Some scholars have emphasized that this principle takes various forms, such as granting equal opportunities to the parties to present their defenses, ensuring that each party is properly notified to attend arbitration hearings, and allowing each party to review the claims and documents submitted by the other party in order to respond to them.

They consider that this is one of the fundamental principles upon which the arbitration system is based, and that most national arbitration laws adopt it. It reflects respect for the rights of defense and equality between the parties to the dispute.

-
1. See: Al-Tafheem, previous reference, pp. 293–296; and see: Commercial Arbitration, previous reference, p. 243; and see: Judicial Control over Arbitration, previous reference, pp. 209–210.
 2. It is stated in the UNCITRAL Model Law on International Commercial Arbitration in Article 36, paragraph (1), subparagraph (a), item (ii) (2006):
that the party against whom the award is invoked was not given proper notice of the appointment of the arbitrator or of the arbitration proceedings, or was otherwise unable to present his case.
(Arabic version, issued by the United Nations Commission on International Trade Law, June 1985 – July 2006, United Nations Office in Vienna, website: <https://uncitral.un.org>)
 3. This is stated in Article Twenty-Seven of the Arbitration Law, which reads:
“The parties to arbitration shall be treated with equality, and each party shall be given a full and equal opportunity to present his case or his defense.” The official website of the Bureau of Experts at the Council of Ministers, previous reference.
-

The principle of equality is a fundamental basis for achieving justice, and observing the principle of equality is a requirement of applying the international public order, which must be respected. Failure to observe it results in the nullity of the arbitration award, as previously mentioned.⁽¹⁾

Among the judicial applications of this ground is the judgment issued by the Commercial Court of Appeal in the city of Riyadh. As stated in the excerpt of the ruling: “The panel ruled to annul the arbitration award issued on 19/5/1439 AH...,” and the reasons for this judgment included that the claimant who filed the request for annulment of the arbitration award was not properly represented by his agent due to a defect in the wording and form of the power of attorney, which limited its scope and did not include representation in the arbitral proceedings subject to annulment. The claimant was therefore unable to present his defense before the arbitral tribunal, and the arbitration award was based on invalid arbitration procedures that affected it.⁽²⁾

From this judicial ruling, we conclude the following causes:

1. The judicial panel considers that the arbitral tribunal did not comply with Article (50), paragraph (1), subparagraph (c) of the Arbitration Law, because the claimant was unable to present his defense before the arbitral tribunal, and his representative in the arbitration case was not properly authorized. This is because the claimant’s representative’s power of attorney in the arbitration case was limited to disputes arising from the management of the claimant’s shares in companies and actions related thereto, and did not include the arbitration dispute.
2. The judicial panel closed the door of interpretation regarding the validity of the claimant’s representation, due to the deficiency of the power of attorney in the arbitration case.

1. See: Annulment of an Arbitration Award in Algerian Law, previous reference, p. 347; and see: Action for Annulment of an Arbitration Award, previous reference, pp. 26–27.
2. This judgment was issued by the Commercial Court of Appeal in the city of Riyadh, under decision No. 430500990 dated 27/1/1433 AH, in Case No. 447500864 for the year 1444 AH.

The excerpt from the reasoning of the judgment states:

“By examining the arbitration award and the documents submitted by both parties to the case, it becomes clear that the claimant’s power of attorney (...) certified by the Ministry of Justice in Dubai, United Arab Emirates, dated 22/12/2014, does not include a general authorization covering all types of contracts. Rather, it is limited to matters related to managing his shares in companies and conducting transactions such as disposition, sale, waiver, and similar matters.

In addition, it includes carrying out procedures related to that, including litigation and arbitration procedures. Since the arbitration agreement is the basis of the arbitration award in the dispute, and since the contract concluded by his agent on behalf of the claimant (...) concerns the sale and supply of equipment and machinery, and not all contracts, and because the agency is not comprehensive, the arbitration agreement contained therein is invalid.

Accordingly, the arbitration award is subject to annulment pursuant to Article (50) mentioned above. Furthermore, since the claimant’s representation before the arbitral tribunal was based on the aforementioned agency, and since this agency relates specifically to disputes arising from managing the claimant’s shares in companies, and not to this dispute, then the representation of the claimant is invalid.

As a result, the claimant could not present his defense before the arbitral tribunal, and therefore the arbitration award was based on invalid procedures that affect its validity. This constitutes a ground for annulment under Article (50), paragraph (1), subparagraph (c) of the Arbitration Law.

Moreover, since the claimant’s power of attorney was not valid for such proceedings, the court concludes that issuing the order to enforce the arbitration award does not prevent filing an annulment action. The court may hear such action within the statutory period once proper notification is established.

Based on the foregoing, the panel rules as follows:

First: Annulment of the arbitration award issued on 19/5/1439 AH.

Second: The claimant shall pay an amount of (75,004,720) seventy-five million four thousand seven hundred and twenty riyals.

Third: The claimant shall pay an amount of (4,720,706) four million seven hundred and twenty thousand seven hundred and six riyals as compensation.

Fourth: The claimant shall pay arbitration fees amounting to (4,250,000) four million two hundred and fifty thousand riyals, representing (5%) of the contract value.

Thus, the total amount payable by the claimant is (93,975,426) ninety-three million nine hundred seventy-five thousand four hundred twenty-six riyals.

The rest of the claims of the parties are dismissed.

And Allah grants success. May peace and blessings be upon our Prophet Muhammad, his family, and companions.

Source: Official legal portal of the Ministry of Justice, previous reference.

Collection of judicial rulings issued in annulment actions of arbitration awards, previous reference.

3. The judicial panel held that the statutory text in Article (50), paragraph (1), subparagraph (c) of the Arbitration Law was correctly applied. This means that the agent's power of attorney must include clear and explicit wording authorizing representation in the arbitration case in accordance with the arbitration agreement.

Among the judicial applications of this ground is the judgment issued by the Commercial Court of Appeal in the Riyadh Region, as stated in the excerpt of the ruling: "Annulment of the arbitration award issued on 14/10/1442 AH...", and the reasons for this judgment included that the arbitral tribunal did not notify the representative of the respondent (the party against whom annulment is sought), and that the notification was delivered to the bankruptcy trustee, and that the bankruptcy trustee in the financial reorganization procedure does not represent the debtor. Such notification in this manner is invalid and results in annulment. (1)

From this judicial ruling, we conclude the following causes:

1. The judicial panel held that the arbitral tribunal violated Article (50), paragraph (1), subparagraph (c) of the Arbitration Law because the representative of the respondent was not notified after the suspension period ended, while the notification was directed to the bankruptcy trustee, and the bankruptcy trustee in the financial reorganization procedure does not represent the debtor.
2. The judicial panel held that notifying the respondent through the bankruptcy trustee is invalid, because the bankruptcy trustee does not represent the debtor. This indicates that the arbitral tribunal erred in its interpretation that the bankruptcy trustee represents the debtor in the arbitration case.
3. The judicial panel held that the arbitral tribunal erred in understanding the functions of the bankruptcy trustee under the law. The role of the bankruptcy trustee in the financial reorganization procedure is limited to supervising the debtor's activities, in addition to the duties assigned to him under Articles (57–58) of the Bankruptcy Law. Therefore, the arbitral tribunal exceeded its authority by assigning to the bankruptcy trustee responsibilities that fall outside his legally defined duties.

This judgment was issued by the Commercial Court of Appeal in the Riyadh region, Decision No. 3618, dated 30/8/2021, by the Fifth Circuit of Appeal, Case No. 3618 of the year 1443 AH.

The reasoning of the judgment states: "Since the plaintiff's representative requested the annulment of the arbitration award issued on 10/11/1442 AH — according to what was submitted by him — and since Article (50/1) of the Arbitration Law stipulates that: 'A claim for annulment of an arbitration award shall not be accepted except in the following cases: (a) If no valid arbitration agreement exists, or if such agreement is void, voidable, or has expired. (b) If one of the arbitration parties was, at the time of concluding the arbitration agreement, lacking legal capacity, according to the law governing his capacity. (c) If one of the arbitration parties was unable to present his defense due to not being properly notified of the appointment of an arbitrator or of the arbitration proceedings, or for any other reason beyond his control. (d) If the arbitration award excludes the application of any rules agreed upon by the parties. (e) If the formation of the arbitral tribunal or the appointment of the arbitrators was not carried out in accordance with this law or the parties' agreement. (f) If the arbitration award decides on matters not included in the arbitration agreement; however, if parts of the award relating to matters subject to arbitration can be separated from those not subject to arbitration, then annulment shall apply only to the latter parts. (g) If the arbitral tribunal did not comply with the conditions required for the award in a manner that affects its content, or if the award was based on void arbitration procedures that affected it.'

Since the judgment under appeal violated this article, as the arbitral tribunal's notification was made after the expiry of the period for filing the annulment claim — and the notification was not delivered to the bankruptcy trustee — and since the bankruptcy trustee, in the financial reorganization procedure, represents the debtor, but his role is limited to supervising the debtor's activities, in addition to the tasks assigned to him under Articles (57–58) of the Bankruptcy Law — which resulted in the arbitral tribunal's notification being made through an incorrect channel — and this constitutes a reason requiring annulment..."

Then the operative part of the judgment stated:

- 1- Annulment of the arbitration award issued on 10/11/1442 AH.
- 2- Obliging the defendant to pay the plaintiff an amount of (...) Riyals.
- 3- Rejecting all other claims.

And Allah is the grantor of success. May peace and blessings be upon our Prophet Muhammad and upon his family and companions.

Second Ground: If the arbitration award excludes the application of any of the statutory rules agreed upon by the arbitration parties to apply to the subject of the dispute

The arbitral tribunal is bound to apply the statutory rules agreed upon by the arbitration parties, in implementation of the will of the arbitration parties, whether they are substantive or procedural rules, whether they are institutional procedural rules of an arbitration center, or regulations that follow international agreements, or otherwise agreed upon by the arbitration parties to be applied to the dispute.

Failure of the arbitral tribunal to apply the agreed rules is considered a cause for annulment of the arbitration award, independent from other causes of annulment, and this shows the importance of applying the will of the arbitration parties in arbitration disputes.⁽¹⁾

The statutory basis for this ruling is what is stated in the Arbitration Law in Article (50), paragraph (1), subparagraph (d), which provides: “A claim for annulment of an arbitration award shall not be accepted except in the following cases: ... (d) If the arbitration award excludes the application of any of the statutory rules agreed upon by the arbitration parties to be applied to the subject of the dispute.”

In interpreting the intended meaning of the statutory rules whose violation results in the annulment of the arbitration award, the commentators on the regulations indicate that the arbitral tribunal is bound by what the arbitration parties agreed upon in terms of procedural rules, and that the statutory rules to be applied in arbitration do not go beyond being either procedural or substantive rules. However, they differed in defining what is meant by “statutory rules,” and two opinions appeared among the commentators:

First opinion:

That what is meant are only procedural rules. They said that the arbitral tribunal must apply what has been agreed upon as stipulated in Article (25) of the Arbitration Law regarding notification or the procedural rules of arbitration, such as the rules of arbitration institutions like the Saudi Center for Commercial Arbitration or others, provided that they do not conflict with Islamic Sharia.

It may be understood from their statement that the substantive rules are addressed in Articles (38) and (39) of the Arbitration Law, and that the substantive rules applicable to arbitration awards must be Islamic Sharia if the arbitration is between two natural persons or two legal persons, one of whom is Muslim, and if there is any contradiction, then reference must be made to Islamic Sharia.⁽²⁾

Second opinion:

That what is meant are the substantive rules. They said that the arbitral tribunal must apply these agreed rules, regardless of whether the arbitration award contains an error or violation in their application.

1. See: Al-Tahkim, previous reference, p. 293.
2. See: Al-Tahkim, previous reference, p. 293.

...or the interpretation of these agreed rules, and it can be understood from his statement that the arbitral tribunal is not obligated except to apply the substantive law.⁽¹⁾

The researcher believes that the prevailing opinion is to combine these two views, as what is meant by the statutory rules in this ground, in their origin, are both procedural and substantive rules; because the Arbitration Law, in its various provisions, requires adherence to procedural rules governing the procedures of hearing the dispute and adjudicating it procedurally, and to substantive rules that govern the subject of the dispute and the manner of resolving it substantively. This is what is applied judicially, and judicial applications in this study will confirm that.

The provisions of the Arbitration Law that require adherence to procedural and substantive rules in the subject of the dispute are Articles: (5), (25), and (38).⁽²⁾

Commentators on the regulations differed regarding the extent to which excluding the application of the agreed statutory rules leads to annulment of the arbitration award, into three opinions after their agreement that the arbitral tribunal must apply the agreed statutory rules:

The first opinion: that exclusion applies only to some statutory rules that must be applied.

The second opinion: that exclusion applies to some statutory rules that must be applied, and the error lies in selecting the correct rule that should be applied to the subject of the dispute.

The third opinion: that exclusion applies to all statutory rules that must be applied.⁽³⁾

The researcher believes that the prevailing opinion is the first opinion, due to the general wording of the statutory text, which considers this case as a ground for annulment, and the general wording includes any part.

Among the judicial applications of this ground: the judgment issued by the Commercial Court of Appeal in the Eastern Region, as stated in the excerpt of its ruling: “The panel ruled the annulment of the arbitration award issued under No. 1441/... dated 7/2/1444 AH from the arbitral tribunal, and the reasons...”

1. See: Action for Annulment of an Arbitration Award, previous reference, pp. 25–26.
2. Article (25) of the Arbitration Law provides: “The two parties to arbitration may agree on the procedures to be followed by the arbitral tribunal, including their right to subject these procedures to the rules in force in any organization, authority, or arbitration center inside or outside the Kingdom, provided that they do not conflict with the provisions of Islamic Sharia.” If no such agreement exists, the arbitral tribunal shall, while observing the provisions of Islamic Sharia, choose the arbitration procedures it deems appropriate.

The text of Article (38) also provides: “While observing the provisions of Islamic Sharia and public order in the Kingdom, the arbitral tribunal, when deciding the dispute, shall apply the rules agreed upon by the parties to the subject of the dispute.”

If the parties agree to apply the law of a specific country, then the applicable substantive rules are those in force in that country, excluding rules related to conflict of laws, unless otherwise agreed by the parties.

It appears from this that the application of substantive rules by the arbitral tribunal to the subject matter of the dispute is what the law gives priority to in resolving the dispute. See: the official website of the Bureau of Experts at the Council of Ministers, previous reference.

3. See: Action for Annulment of an Arbitration Award, previous reference, p. 26.

This judgment included that the arbitration award was issued by an arbitral tribunal whose quorum was not complete after one of its members resigned. Accordingly, the award is considered contrary to the agreement of the parties regarding the formation of the tribunal, and the arbitration award excluded the application of the statutory rules agreed upon by the arbitration parties.⁽¹⁾

From this judicial ruling, we conclude the following causes:

1. The judicial panel held that the arbitral tribunal violated Article (50), paragraph (1) of the Arbitration Law. The aspect of violation is that the arbitration award excluded the application of the statutory rules agreed upon by the arbitration parties, which included that the award be issued by a fully constituted tribunal without any deficiency.
2. The judicial panel held that the arbitral tribunal erred in its reasoning and in issuing the arbitration award by a tribunal whose quorum was incomplete in terms of the number of its members who were originally appointed at the beginning of the dispute, after one member resigned.
3. The judicial panel held that the arbitral tribunal violated the parties' agreement regarding the formation of the arbitral tribunal, which was agreed to consist of a chairman and two members.

After stating the above conclusions from the judicial ruling, we point to an important issue, which is that the Court of Appeal does not accept an objection to the arbitration award except through an action for annulment of the arbitration award, if it is related to a violation of arbitration procedures in the following cases:

1. If the party objecting to the procedure continues in it until its deadline passes, which is thirty days from the date the objecting party became aware of the violation, and the claimant for annulment did not submit his objection to this violation within this period, in the following procedures and cases:
-

This judgment was issued by the Commercial Court of Appeal in the Eastern Region, Decision No. 430241451, dated 2/11/2022, by the Third Commercial Circuit, Case No. 1444 AH.

The excerpt from the reasoning of the judgment states: "The arbitration award was issued by an arbitral tribunal whose quorum was incomplete in terms of the number of its members who were initially appointed to consider the dispute — the subject of arbitration — after one member resigned before the award was issued. Accordingly, the award is considered contrary to the parties' agreement regarding the formation of the arbitral tribunal, which was agreed to consist of a chairman and two members. Therefore, the award is affected by this violation, and Article (50) of the Arbitration Law applies, particularly subparagraph (e) of paragraph (1), which states: 'A claim for annulment of an arbitration award shall not be accepted except in the following cases: ... (e) If the formation of the arbitral tribunal or the appointment of the arbitrators was not carried out in accordance with this law or the parties' agreement.'

The arbitral tribunal also excluded the application of the statutory rules agreed upon by the arbitration parties, which required that the tribunal be fully constituted without deficiency. Therefore, the award falls under the grounds for annulment stipulated in Article (50), paragraph (1), subparagraphs (d) and (e) of the Arbitration Law."

Accordingly, the panel concluded in its ruling:

"Annulment of the arbitration award issued on 7/2/1444 AH by the arbitral tribunal formed under Decision No. (1441/81) dated 27/3/1443 AH in the arbitration case filed by (...) Company against (...) Company ... as detailed in the reasoning."

And Allah grants success. May peace and blessings be upon our Prophet Muhammad, his family, and companions.

Source: Official legal portal of the Ministry of Justice, previous reference.

Collection of judicial rulings issued in annulment actions of arbitration awards, previous reference.

- a. If the procedure objected to violates a provision of the Arbitration Law in matters where it is permissible to agree otherwise.
- b. If the procedure objected to violates a condition agreed upon by the parties to the dispute in an arbitration clause or arbitration agreement. ⁽¹⁾

Commentators on the Arbitration Law explained the lapse of the right to object in these cases as follows: the silence of the claimant in the annulment action regarding objection to this violating procedure within the specified period is considered a waiver of his right to annul due to the violation of the procedure. ⁽²⁾

2. If the objecting party continues in the arbitration procedures without raising the objection before the arbitral tribunal until the hearing is concluded, ⁽³⁾ and ends with submitting the first written response of the objector, some commentators on the Arbitration Law state that what matters is not merely submitting a response, but rather the lapse of the period set for the claimant to submit his written response to the claimant's statement of claim. This period is determined either by the agreement of the parties or by the arbitral tribunal. ⁽⁴⁾

And it is established that the criterion for continuing in arbitration procedures without raising the objection before the arbitral tribunal is that the subject matter of the dispute is not related to an arbitration agreement. If it is related to an arbitration agreement, then the objection must be submitted in written memoranda. Otherwise, the lapse of the right to object occurs due to failure to raise the objection in the objector's first written memorandum.

This is because the objector may not have known that the subject matter of the dispute falls outside the arbitration agreement except through the statement of claim submitted by the claimant. Therefore, the first response memorandum of the objector is considered the stage at which the objection must be raised. ⁽⁵⁾

The Court of Appeal also does not accept an objection to the arbitration award through an annulment action if it is related to arbitration procedures in the following cases:

1. If the objector continues in the arbitration procedures without raising the objection before the arbitrator until the period of five days has elapsed from the date the objector became aware of the request for response concerning the formation of the arbitral tribunal.

1. Based on the statutory rule in Article (7) of the Arbitration Law, which provides: "If one of the arbitration parties continues in the arbitration procedures — while being aware that a violation of a provision of this Law has occurred, which may be agreed otherwise, or of a condition in the arbitration agreement — and does not submit an objection to this violation within the agreed time limit, or within thirty days from the date of his knowledge of the occurrence of the violation in the absence of agreement, he shall be deemed to have waived his right to object." (Official website of the Bureau of Experts at the Council of Ministers, previous reference).
2. See: Al-Tahkim, previous reference, pp. 295–296.
3. This ruling is stated in Article (20), paragraph (2) of the Arbitration Law, which provides: "A plea of lack of jurisdiction of the arbitral tribunal must be raised according to the deadlines referred to in paragraph (2) of Article (30) of this Law. Participation by one of the arbitration parties in the appointment of an arbitrator or in the appointment procedure shall not preclude him from raising such plea. As for a plea that the arbitration agreement does not cover matters raised during the dispute, it must be raised immediately upon its occurrence, otherwise the right shall lapse. In all cases, the arbitral tribunal may accept a late plea if it considers the delay justified." (Official website of the Bureau of Experts at the Council of Ministers, previous reference).
4. See: Al-Tahkim, previous reference, p. 296.
5. See: Al-Tahkim, previous reference, pp. 296–297.

2. If the closing of pleadings is announced before the arbitral tribunal, then a request for recusal of the arbitrator is not accepted, regardless of the reasons, whether the grounds for recusal became known before or after the closing of pleadings. (1)(2)

Fourth Section: Grounds Related to the Issuance of the Arbitration Award

Introduction and Division:

The Arbitration Law imposes on the arbitral tribunal a set of obligations in the arbitration award it issues, including that the tribunal must comply with the conditions required in the award, that the award be based on valid arbitration procedures, that the reasons for the award be stated, that the award be signed by the arbitrators, and that the essential data be included in the award.

Violation of these obligations leads to the annulment of the arbitration award in the manner that will be presented, and any failure to comply with these obligations is considered a ground for annulment of the award.

The details of the grounds that lead to annulment of the arbitration award if any of them are present are as follows:

First Ground: If the arbitral tribunal does not observe the conditions that must be met in the award, or if the award is based on invalid arbitration procedures that affected it

This ground is realized if there is a failure by the arbitral tribunal to meet the required conditions in the award, such that the award becomes subject to annulment if this affects the substance of the award. An example of this ground is: if the award is issued by a minority,(3) or if the award is issued equally without appointing a casting vote.(4)

The statutory basis for this ground is what is stated in Article (50), paragraph (1), subparagraph (z), which provides: “A claim for annulment of an arbitration award shall not be accepted except in the following cases: ... (z) If the arbitral tribunal did not observe the conditions that must be met in the award in a manner that affects its content, or if the award was based on invalid arbitration procedures that affected it.”

Among the judicial applications of this ground is the judgment issued by the Commercial Court of Appeal in the Riyadh region, as stated in the excerpt of its ruling: “Annulment of the arbitration award in paragraph (3/2) related to the obligation of the company’s representative ... holding Saudi national ID No. ...”

1. See: Al-Tahkim, previous reference, p. 297.
2. The basis for this is what is stated in the Arbitration Law in Article (17), paragraph (1), and the excerpt from it is: “If there is no agreement between the two arbitration parties regarding the procedures for recusal of the arbitrator, a request for recusal shall be submitted — in writing — to the arbitral tribunal, stating the reasons for recusal, within five days from the date the requesting party became aware of the formation of the tribunal, or of the circumstances justifying recusal...” (Official website of the Bureau of Experts at the Council of Ministers, previous reference).
3. It is also stated in the Arbitration Law in Article (42), paragraph (1): “The arbitration award shall be issued in writing and shall be reasoned, and signed by the arbitrators. In case the arbitral tribunal consists of more than one arbitrator, the signatures of the majority of arbitrators shall suffice, provided that the reason for the absence of any signature is recorded in the award.” (Official website of the Bureau of Experts at the Council of Ministers, previous reference).
4. It is also stated in the Arbitration Rules of the Saudi Center for Commercial Arbitration (SCCA), in Article (25), paragraph (3): “In case there is more than one arbitrator and the arbitral tribunal fails to reach unanimity, any award, decision, or order shall be issued by majority.” (Effective from 11 Shawwal 1444 AH corresponding to May 1, 2023).
5. See: Al-Tahkim, previous reference, p. 293. And see: Commercial Arbitration, previous reference, p. 43. And see: Judicial Oversight over Arbitration, previous reference, p. 210.

“... Second: Rejection of the annulment claim ...”

The reasons for this judgment included that the person against whom the arbitration award was issued is the representative of a company, ..., and he is not a party to the case, and that ruling against him in this manner violates Article (50), paragraph (1), subparagraph (z) of the Arbitration Law.⁽¹⁾

From this judicial ruling, we conclude the following causes:

The judicial panel held that the arbitral tribunal violated Article (50), paragraph (1), subparagraph (z) of the Arbitration Law. The aspect of violation is that the arbitral tribunal ruled against a person who is not a party to the case.

1. The judicial panel held that the arbitral tribunal erred in its reasoning by obligating the claimant in his capacity as a representative of the company, because in this capacity he is not a party to the dispute under consideration in the arbitration case.
2. The judicial panel relied on the correctness of its reasoning and found that the arbitral tribunal erred in its judgment, and that the claims of the party against whom the arbitration award was issued are justified according to what is stated in the judgment against the company.

Second Ground: If the arbitration award lacks reasoning or the signatures of the arbitrators

The reasoning of the award is one of the formal requirements that must be included in the arbitration award. Failure to provide reasoning is considered a procedural defect that leads to the annulment of the arbitration award. The reasoning must not be contradictory, and one form of contradiction in reasoning is when the reasons are based on different legal ideas.

1. This judgment was issued by the Commercial Court of Appeal in the Riyadh region, Decision No. 433745757 dated 14/7/2022, by the Fifth Circuit of Appeal, Case No. 43934979 for the year 1443 AH.

The excerpt from the reasoning of the judgment states: “Since the claimant’s representative (...) requested the annulment of the arbitration award issued on 29/5/1442 AH — according to what he submitted — and upon reviewing the arbitration award attached in the case file, it became clear that the arbitral tribunal concluded in its ruling by obligating the claimant in his capacity as a representative of the company, according to what was stated in its ruling in paragraph (3/2) — and based on what he submitted — and since (...) in his capacity as a representative of the company is not a party to the dispute under consideration in the arbitration case in which the award subject to annulment was issued — as the parties to the case are (...) — and since ruling against him in this capacity violates the principle of personality of penalties, as well as what is established in the law that rulings must be issued only against the litigants — therefore, the panel ruled to annul the arbitration award in paragraph (3/2) related to obligating the representative of the company, holder of ID No. (...), for violating public order, based on Article (50), paragraph (1), subparagraph (z) of the Arbitration Law...”

And with regard to the annulment claim submitted by (...) Company for engineering consultations, Commercial Register No. (...), to prove grounds for annulment of the arbitration award related to obligating it — according to what was submitted — the panel finds that the facts stated in the ruling do not constitute a valid ground for annulment of the arbitration award, as what was mentioned are not among the grounds specified in the Arbitration Law, which requires that the annulment claim be based on grounds explicitly provided for by law.

Moreover, the alleged facts do not go beyond being a challenge to the merits of the dispute and its re-examination, which falls within the jurisdiction of the arbitral tribunal, not the court hearing the annulment claim. Therefore, the panel concludes that there is no valid ground for annulment in this respect.

Accordingly, based on Article (50) of the Arbitration Law, which provides: “The competent court shall consider the annulment claim in the cases referred to in this Article,” and since the panel has concluded to reject the company’s claim for annulment regarding the obligations imposed on it, and since there is no enforceable award in respect of what was ruled, then the enforcement request shall also be rejected.

Thus, the panel rules as follows:

First: Annulment of the arbitration award in paragraph (3/2) concerning the obligation of the company’s representative, holder of ID No. (...).

Second: Rejection of the annulment claim submitted by (...) Company for engineering consultations, Commercial Register No. (...).

Third: Confirmation of the arbitration award in paragraph (3/3) related to the obligations imposed on the company and the claimant, in accordance with what is stated in the arbitration award, and obligating the company (...) to amend the company’s articles of association as per the provisions of the arbitration award issued in Case No. (5210) for the year 1437 AH and No. (2845) for the year 1437 AH, issued by the Commercial Court in Riyadh, and to submit them to the Notary Public in Jeddah, Ministry of Justice, and to register and document them in the commercial registers of the company and its branches, and to register them with the Saudi Council of Engineers, and other concerned authorities.

Fourth: Obliging the company to bear all arbitration costs and what is due from it according to the arbitration award, detailed as follows:

- (a) An amount of (...) riyals as arbitration fees.
- (b) An amount of (...) riyals as fees for the arbitration tribunal chairman.
- (c) An amount of (...) riyals as fees for the arbitration tribunal members.

Fifth: Not to accept the claimant’s request (...) and obligating the company against which the claim is filed to compensate (...) for the termination of his work and the consequences thereof.

The matter is concluded by the judicial ruling in Case No. (5210) for the year 1437 AH and No. (2845) for the year 1437 AH, which has acquired res judicata.

And Allah grants success. May peace and blessings be upon our Prophet Muhammad, his family, and companions.

Source: Official legal portal of the Ministry of Justice, previous reference.

Collection of judicial rulings issued in annulment actions of arbitration awards, previous reference.

...and contradictory, or based on an interpretation of the documents that differs from another interpretation that leads to a different conclusion elsewhere in the reasons, and the nature of contradiction in the reasons is: that the reasons negate one another.⁽¹⁾

The legal basis for this ruling is what is stated in Article (42), paragraph (1), and its text is:

“An arbitration award shall be issued in writing, reasoned, and signed by the arbitrators. In the case where the arbitral tribunal consists of more than one arbitrator, the signatures of the majority of the arbitrators shall suffice, provided that the reasons for the absence of a signature are recorded in the minutes of the case.”⁽²⁾

The third ground: if the arbitration award lacks the essential data that must be included in its writing

The arbitration award must include the essential data whose absence or deficiency affects its validity, and among examples of these data: the names of the parties to the dispute, their descriptions, and a summary of what they submitted in their statements and defenses, and the documents and means of proof on which the award is based, the requests of the parties to the dispute, and the operative part of the award.

The legal basis for this ruling is what is stated in Article (42), paragraph (2), and its text is:

“(2) The arbitration award must include the date of issuance, the place of issuance, the names of the parties and their addresses, the names of the arbitrators and their addresses and nationalities, a summary of the arbitration agreement, a summary of the statements and requests of the parties, their pleadings and documents, and a summary of the expert report, if any, the operative part of the award, the determination of the arbitrators’ fees, the costs of arbitration, and how they are to be distributed between the parties, without prejudice to what is provided in Article (34) of this Law.”

Some commentators believe that the omission of some data does not constitute a ground for annulment because its omission does not affect the content of the award, and among these data are: the arbitrators’ fees, the arbitration expenses, and their distribution between the parties to the dispute if they are not included in the operative part of the award, and other matters that do not affect the content of the award.⁽³⁾

And the Shafi’i school stipulates for the enforcement of the arbitrator’s award: that it must include what makes it binding and obligatory upon the parties to arbitration, with disagreement among the Shafi’i scholars regarding this condition.

-
1. See: Al-Tahkim, previous reference, p. 294. And see: Annulment of Arbitration Award in Algerian Law, previous reference, p. 348.
 2. It is stated in the UNCITRAL Arbitration Rules in Article (34), paragraph (3), its text is: “... The arbitral tribunal shall state the reasons upon which the award is based, unless the parties have agreed that no reasons are to be given.” It is also sufficient that the arbitration award includes the signatures of the arbitrators, and the requirement of signing the award is fulfilled if it bears the signature of the majority of the arbitrators. In the case where the arbitral tribunal consists of more than one arbitrator, it is sufficient that the signatures of the majority of the arbitrators appear, provided that the reason for the absence of any signature is stated. (Arabic version issued by the United Nations Commission on International Trade Law (UNCITRAL), April 2011, United Nations Office in Vienna, electronic website: <https://uncitral.un.org>)
 3. See: Al-Tahkim, previous reference, p. 294.
 4. See: Al-Hawi Al-Kabir, previous reference, vol. 16, p. 326.
-

The Fifth Topic: Causes Related to Violation of the Provisions of Islamic Sharia or Public Order

Introduction and Division:

The Saudi Arbitration Law states that an arbitration award shall be annulled by the Court of Appeal if it violates the provisions of Islamic Sharia, or if it contains what is not permissible according to Sharia rulings. Accordingly, annulment does not fall by waiver, nor may it be agreed otherwise, except in cases where the Sharia ruling is considered among those that may be waived or agreed upon otherwise, in which case ijtiḥād may be exercised, such as matters of choice of the council; if waiver or agreement to the contrary is made, then the arbitration award is not annulled.

The law also provides that an arbitration award shall be annulled by the Court of Appeal if it violates public order.⁽¹⁾

The researcher believes that what is meant by public order here is public order at the international level.⁽²⁾

The researcher also sees that assigning the competent court, under the statutory provision, the authority to examine violations of the provisions of Islamic Sharia or public order does not mean restricting the review only to what the court examines on its own motion, but rather the competent court may examine it based on a request from the party claiming annulment, and it may also examine it without a claim from the party seeking annulment.

The legal basis for this ruling is what is stated in Article (50), paragraph (2), which provides:
“The competent court considering the annulment action shall, on its own motion, annul the arbitration award if it includes what violates the provisions of Islamic Sharia and public order in the Kingdom, or what the parties to arbitration have agreed upon, or if the subject matter of the dispute is among matters in which arbitration is not permitted under this Law.”

Among the judicial applications of this ground is the previously mentioned judgment in the fourth topic, issued by the Commercial Court of Appeal in the Riyadh region, and stated in its ruling:

“First: Annulment of the arbitration award in paragraph (3/2) related to obligating the company’s representative...

Second: Rejection of the annulment claim No. (...).”

The reasons for this ruling included that the person against whom the arbitration award was issued is the representative of a company, and he is not a party to the case, and that ruling against him in this manner violates Article (50), paragraph (2) of the Arbitration Law.⁽³⁾

From this judicial ruling, we conclude the following causes:

1. See: Al-Tahkim, previous reference, pp. 294–295. And see: Commercial Arbitration, previous reference, p. 43. And see: Judicial Oversight over Arbitration, previous reference, pp. 210–211.
2. See: Al-Tahkim, previous reference, pp. 294–295. And see: Commercial Arbitration, previous reference, p. 43.
3. This judgment was issued by the Commercial Court of Appeal in the Riyadh region, Decision No. 433745757 dated 14/7/2022, by the Fifth Circuit of Appeal, Case No. 43934979 for the year 1443 AH, previous reference, and its text and reasoning were mentioned previously in the fourth topic.

1. The judicial panel held that the arbitral tribunal violated Article (50), paragraph (2) of the Arbitration Law. The aspect of violation is that the arbitral tribunal ruled against a person who is not a party to the case.
2. The judicial panel held that the arbitral tribunal erred in its reasoning by obligating the claimant in his capacity as a representative of the company, because in this capacity he is not a party to the dispute under consideration in the arbitration case.
3. The judicial panel relied on the correctness of its reasoning and found that the arbitral tribunal erred in its judgment, and that the claims of the party against whom the arbitration award was issued are justified according to what is stated in the judgment against the company.
4. The judicial panel held that what the arbitral tribunal committed were violations to which the provisions of Article (50), paragraph (2) and paragraph (1), subparagraph (z) of the Arbitration Law apply.

Among the judicial applications of this ground is also the judgment issued by the Commercial Court of Appeal in the Eastern Region, in the city of Dammam, and stated in its ruling:

“The panel ruled to annul the arbitration award dated 7/1/1443 AH between the litigants in the financial and commercial dispute ...”

The reasons for this judgment included that the arbitral tribunal did not take any action regarding the request to recuse one of its members, and that the award was issued by only two of its members, and that the arbitral tribunal violated public order in the deliberation session and the session of pronouncing the judgment, and did not consider the mentioned recusal request.⁽¹⁾

From this judicial ruling, we conclude the following causes:

1. This judgment was issued by the Commercial Court of Appeal in the Eastern Region, in the city of Dammam, Decision No. 437287735 dated 22/11/2021, Case No. 43714051 for the year 1443 AH.

The excerpt from the reasoning of the judgment states: “Where the two parties agreed that the arbitration tribunal member (...) submitted his recusal request before the date of the session set for study and deliberation prior to issuing the award, and what appears from the facts is his absence from attending the session, deliberation, issuing the award, and signing the draft award, and expressing his opinion; and since the tribunal did not take any action regarding the request to recuse the arbitrator (...) and as stated in the arbitration award — contrary to what was mentioned above — and since the agreement to form the arbitral tribunal between the two parties dated 27/11/1439 AH stipulates in paragraph (3) that: (the parties agree that the arbitral tribunal shall consist of three arbitrators, where each party nominates one arbitrator and the third arbitrator shall be chosen by the two nominated arbitrators, and in the event of disagreement, the third arbitrator shall be appointed by the competent court), and since the claimant nominated (...) and the respondent nominated (...) and the two arbitrators agreed to appoint (...) as the presiding arbitrator (chairman of the arbitral tribunal), and it appears from that what supports this view; thus, if the arbitral tribunal is composed of three members...

And since Article (19) of the Arbitration Law issued by Royal Decree No. (M/34) dated 24/5/1433 AH provides that: (If the arbitrator’s mission ends due to resignation, recusal, dismissal, or for any other reason, a substitute arbitrator shall be appointed according to the procedures followed in appointing the arbitrator whose mission has ended), and since Article (14) of the Arbitration Rules of the Bureau of Experts at the Council of Ministers dated 26/8/1438 AH provides that: (The arbitrator’s mission ends in the cases stated in Article (19), and upon termination of the arbitrator’s mission, arbitration proceedings shall be suspended until a substitute arbitrator is appointed in accordance with the provisions of the Law), and since it is established that the recusal request was not decided, and the award was issued by only two arbitrators...

And since Article (50) of the Arbitration Law provides that: (An annulment action against the arbitration award shall not be accepted except in the following cases...), including: (If the arbitral tribunal was formed or the arbitrators were appointed in a manner contrary to this Law or the agreement of the parties), and since the arbitration award was issued without proper formation of the tribunal, then the annulment claim is valid on this ground.

It is also included in paragraph (2) of this Article that: (The competent court considering the annulment action shall, on its own motion, annul the arbitration award if it includes what violates the provisions of Islamic Sharia and public order in the Kingdom...), and since the arbitral tribunal violated public order in the deliberation session and the session of pronouncing the award...

And since arbitration is a substitute for the judiciary, and it is not permissible for the arbitrator to issue a ruling without hearing the statements and defenses of the parties and enabling them to present their arguments; therefore, the court ruled that the arbitration procedures were defective.

Accordingly, the panel rules as follows:

First: Annulment of the arbitration award issued on 7/1/1443 AH between the litigants in the case (...).

Second: Obliging the defendant to pay the claimant an amount (...) riyals, and obliging him to pay the arbitration fees and costs.

Third: Dismissing the remaining claims.

And Allah grants success. May peace and blessings be upon our Prophet Muhammad, his family, and companions.

Source: Official legal portal of the Ministry of Justice, previous reference.

Collection of judicial rulings issued in annulment actions of arbitration awards, previous reference.

1. The judicial panel held that the arbitral tribunal violated Article (50), paragraph (2) of the Arbitration Law. The aspect of violation is that the request to recuse a member of the arbitral tribunal was not subject to any procedure, and the award of the tribunal was issued by two of its members.
2. The judicial panel held that the arbitral tribunal committed procedural violations represented in the absence of the arbitrator from attending the hearing, deliberation, issuing the award, and signing the draft award, and expressing his opinion, and that the arbitral tribunal did not take any action regarding the request to recuse the arbitrator, and that the arbitral tribunal did not apply the agreement on the formation of the arbitral tribunal between the parties.

After the researcher concluded from the mentioned judicial ruling, he referred to what some commentators of Algerian law state: that public order, upon which an annulment claim is based, differs from public order in international law, according to what is referred to as the duality of the concept of public order.

Public order in its international sense is intended here, and the consideration of public order is made at the time of reviewing the arbitration award during the annulment proceedings before the judiciary, and not at the time of issuing the arbitration award. This requires the judge to examine the arbitration award from the perspective of international public order in terms of procedures and substance.

The judiciary is competent to monitor arbitration awards when they contradict public order, as a result of violating the fundamental substantive principles established in national law applied in international relations.⁽¹⁾

The Sixth Topic: Causes Related to Violation of the Arbitration Agreement of the Parties and Deviation in the Subject of the Dispute

The Arbitration Law obligates the arbitral tribunal to adhere to its ruling to what is included in the arbitration agreement. Therefore, deviation from the arbitration agreement makes the arbitration award subject to annulment, because it violates the agreement of the arbitration parties.⁽²⁾

It should be noted here that a defense or response from one of the parties to the dispute that includes a violation of the arbitration agreement in matters raised before the tribunal during the course of the case must be submitted immediately in the first response; otherwise, the right to rely on this defense is forfeited, and it cannot be relied upon later in the annulment claim after its time limit has expired.⁽³⁾

Some researchers consider an example of this ground: if the arbitration agreement concerns a dispute over the interpretation of conditions in a contract concluded between an engineer and the employer, and the engineer claims the remaining payment of his fee, then this is considered...

1. See: Annulment of Arbitration Award in Algerian Law, previous reference, pp. 348–349.
2. See: Al-Tahkim, previous reference, p. 295. And see: Commercial Arbitration, previous reference, p. 43. And see: Judicial Oversight over Arbitration, previous reference, p. 210.
3. See: Al-Tahkim, previous reference, p. 295. And see: Commercial Arbitration, previous reference, p. 43.

The claim is outside the arbitration agreement, as it has no relation to the interpretation of the terms of the contract, and such a claim falls under the jurisdiction of the judiciary due to its departure from the scope of arbitration jurisdiction.⁽¹⁾

Regarding the subject matter of the dispute: the Arbitration Law prohibits the arbitral tribunal from considering disputes related to personal status matters and matters in which reconciliation is not permissible.⁽²⁾

The legal basis for this ruling is what is stated in the Arbitration Law in Article (50), paragraph (2), which provides:

“The competent court considering the annulment action shall, on its own motion, annul the arbitration award if it includes what violates the provisions of Islamic Sharia and public order in the Kingdom, or what the parties to arbitration have agreed upon, or if the subject matter of the dispute is among matters in which arbitration is not permitted under this Law.”

It is also stated in Article (2) of the Arbitration Law that:

“...The provisions of this Law shall not apply to disputes related to personal status matters and matters in which reconciliation is not permissible.”

In the Shafi'i school, arbitration is permitted in specific rulings, and they stated that arbitration rulings are divided into three types:

The first type: matters in which arbitration is permissible, such as financial rights, debts, contracts of exchange in which forgiveness and waiver are valid.

The second type: matters in which arbitration is not permissible, such as matters related to the rights of Allah, guardianship over orphans, and imposing interdiction on those entitled to it.

The third type: matters in which there is disagreement regarding their permissibility, such as marriage, divorce, and retaliation⁽³⁾.

It should be noted, after detailing the research on the causes of annulment of arbitration awards, that:

1. The texts regulating arbitration matters are broader than what has been presented, and the causes of annulment of arbitration awards in this research are limited to what is stated in Article (50) of the Arbitration Law. There are additional matters not explicitly mentioned in this Article, which have been accepted by juristic interpretation among commentators of the law.
 2. There are other regulatory provisions not addressed in this research, which include several issues, such as: the delivery of the arbitration award to each of the parties to arbitration in the form of an original copy within fifteen days from the date of its issuance, and others. The researcher excluded these issues for two reasons:
First: because they are not explicitly stated in Article (50) of the Arbitration Law.⁽⁴⁾
Second: because there is no accepted juristic interpretation among commentators of the law or judicial rulings to include them among the causes of annulment of arbitration awards.
-

1. See: Judicial Oversight over Arbitration, previous reference, p. 210.

2. See: Al-Tahkim, previous reference, p. 295. And see: Commercial Arbitration, previous reference, p. 43. And see: Judicial Oversight over Arbitration, previous reference, p. 210.

3. See: Al-Hawi Al-Kabir, previous reference, vol. 16, pp. 325–326.

4. This is stated in Article (43) where it provides:

“Each of the arbitration parties shall be delivered a copy of the original arbitration award within fifteen days from the date of its issuance.”

Official website of the Bureau of Experts at the Council of Ministers, previous reference.

Conclusion:

And our final supplication is that all praise is due to Allah, Lord of the worlds.

In conclusion, after reviewing the importance of the topic, its objectives, and its plan, and after reviewing the main findings reached in this research, we conclude the following:

1. The variation in understanding the Arbitration Law among some arbitration bodies and the judiciary is a main reason for the issuance of rulings that include annulment of arbitration awards.
2. Most judicial rulings annul arbitration awards based on statutory provisions and their judicial applications that focus on procedures and formal aspects of arbitration awards more than substantive aspects.
3. The grounds for annulment of arbitration awards are not accepted by the judiciary unless they are submitted within the specified statutory period, in the form of a claim known as an annulment claim of the arbitration award, and through the procedures specified in the Law of Procedure before Sharia Courts.
4. Some causes lead arbitration proceedings to violations that may reach the level of annulment of the arbitration award, such as:
 - Not understanding the statutory text in a correct manner.
 - Not taking into account the accepted interpretations of the statutory text.
 - Failure to act correctly in cases of recusal of the arbitrator after he has become eligible to issue the arbitration award.
5. The problems of issuing judicial rulings annulling arbitration awards can be addressed through studying and reading judicial rulings and understanding the legal principles related to annulment claims of arbitration awards, and implementing the recommendations mentioned in this research.
6. Some judicial rulings that result in annulment of arbitration awards may lead to compensation for the party harmed by arbitration.

As for the recommendations, the researcher recommends the following:

1. Issuing a code of professional conduct for arbitrators from the competent authority, which includes ethical standards in arbitration practice and rules governing the work of arbitrators, in order to preserve the reputation of arbitration in the Kingdom of Saudi Arabia and protect arbitration from annulment.
 2. Adding to the Arbitration Law the effects resulting from annulment of arbitration awards, such as: arbitration fees, past and future arbitration expenses, and the mechanism for filing a new claim before the same arbitral tribunal that issued and annulled its award or before another arbitral tribunal.
-

3. The competent authority should identify the actual cases in arbitration matters that led to the annulment of arbitration awards, and issue, based on them, judicial principles from the Supreme Court to unify jurisprudence in interpreting the grounds for annulment of arbitration awards.
4. A regulatory explanatory bylaw for the Arbitration Law should be issued to clarify and explain its statutory provisions, in a way that reduces judicial and arbitral discretion in interpreting its texts.

And may Allah's peace and blessings be upon our Prophet Muhammad, and upon his family and all his companions.

List of References and Sources:

1. The Holy Qur'an.

Books of Hadith and its Commentaries:

2. Al-Jami' Al-Sahih Al-Mukhtasar from the matters of the Messenger of Allah (peace and blessings be upon him), his Sunnah and days (Sahih Al-Bukhari), by Imam Muhammad ibn Isma'il Abu Abdullah Al-Bukhari Al-Ju'fi, verified by: Muhammad Zuhair Al-Nasir, Dar Tawq Al-Najat, first edition, 1422 AH.
3. Umdat Al-Qari Sharh Sahih Al-Bukhari, by Abu Muhammad Mahmoud ibn Ahmad Al-Ayni Al-Hanafi Badr Al-Din Al-Ayni, Dar Ihya Al-Turath Al-Arabi, Beirut.
4. Mir'at Al-Mafatih Sharh Mishkat Al-Masabih, by Ali ibn Sultan Abu Al-Hasan Nur Al-Din Al-Harawi Al-Qari, Dar Al-Fikr, Beirut, first edition, 1422 AH – 2002 AD.
5. Al-Musnad Al-Sahih Al-Mukhtasar bi Naql Al-'Adl 'an Al-'Adl ila Rasul Allah (peace and blessings be upon him) (Sahih Muslim), by Imam Muslim ibn Al-Hajjaj Abu Al-Husayn Al-Qushayri Al-Nisaburi, verified by: Muhammad Fuad Abd Al-Baqi, Dar Ihya Al-Turath Al-Arabi, Beirut.

Books of Fiqh and its Principles:

6. Al-Hawi Al-Kabir fi Fiqh Madhhab Al-Imam Al-Shafi'i (Sharh Mukhtasar Al-Muzani), by Abu Al-Hasan Ali ibn Muhammad ibn Habib Al-Basri Al-Baghdadi Al-Mawardi, verified by: Ali Muhammad Mu'awwad and Adel Ahmad Abdul-Mawjoud, Dar Al-Kutub Al-'Ilmiyyah, Beirut, first edition, 1419 AH – 1999 AD.
7. Al-Siyasah Al-Shar'iyyah fi Al-Shu'un Al-Dusturiyyah wal-Kharijiyyah wal-Maliyah, by Sheikh: Abdullah Khalaf, Dar Al-Qalam, first edition, 1408 AH – 1988 AD.
8. Tabaqat Al-Shafi'iyyah Al-Kubra, by Taj Al-Din Abd Al-Wahhab ibn Taqi Al-Din Al-Subki, verified by: Mahmoud Muhammad Al-Tanahi and Abd Al-Fattah Muhammad Al-Helw, Dar Ihya Al-Kutub Al-Arabiyyah, second edition, 1384 AH.
9. Minhaj Al-Jalil Sharh Mukhtasar Khalil, by Muhammad ibn Ahmad ibn Muhammad 'Alyish Abu Abdullah Al-Maliki, Dar Al-Fikr, Beirut, 1409 AH – 1989 AD.
10. Al-Mawsu'ah Al-Fiqhiyyah Al-Kuwaitiyyah, a group of authors, issued by the Ministry of Awqaf and Islamic Affairs, from 1404 AH – 1427 AH.
11. The Islamic Economic System, by Omar Al-Marzouqi, Dr. Abdullah Al-Sa'idi, Dr. Abdullah Al-Nasir, Dr. Ahmad Al-Harbi, and Dr. Muhammad Al-Muqrin, Maktabat Al-Rushd, fifth edition, 1431 AH – 2010 AD.

12. Nihayat Al-Muhtaj ila Sharh Al-Minhaj, by Shams Al-Din Muhammad ibn Abi Al-Abbas Ahmad ibn Hamza Shihab Al-Din Al-Ramli, Dar Al-Fikr, Beirut, latest edition, 1404 AH – 1984 AD.
13. Nail Al-Marib bi Sharh Dalil Al-Talib, by Abdul Qadir ibn Omar Al-Tanukhi Al-Shaybani, Maktabat Al-Falah, Kuwait, first edition, 1403 AH – 1983 AD.

Books of Language and Dictionaries:

14. Taj Al-‘Arus min Jawahir Al-Qamus, by Muhammad ibn Muhammad ibn Abdul Razzaq Al-Husayni Abu Al-Fayd Al-Murtada Al-Zabidi, verified by a group of researchers, Dar Al-Hidayah.
15. Al-Ta‘rifat, by Ali ibn Muhammad ibn Ali Al-Jurjani, verified by Ibrahim Al-Abyari, Dar Al-Kutub Al-‘Ilmiyyah, Beirut, Lebanon, first edition, 1403 AH – 1983 AD.
16. Al-Qamus Al-Fiqhi Lughatan wa Istilahan, by Sa‘di Abu Jayb, Dar Al-Fikr, Damascus, second edition, 1408 AH – 1988 AD.
17. Lisan Al-‘Arab, by Muhammad ibn Makram ibn Ali Abu Al-Fadl Jamal Al-Din ibn Manzur Al-Ansari Al-Ruwaifi‘i Al-Ifriqi, Dar Sader, Beirut, third edition, 1414 AH.
18. Mukhtar Al-Sihah, by Muhammad ibn Abi Bakr ibn Abdul Qadir Al-Razi, verified by Yusuf Al-Sheikh Muhammad, Al-Maktabah Al-‘Asriyah – Al-Dar Al-Namudhajiyyah, Beirut – Sidon, fifth edition, 1420 AH – 1999 AD.
19. Mu‘jam Lughat Al-Fuqaha, by Muhammad Rawwas Qal‘ahji and Hamid Sadiq Qunaibi, Dar Al-Nafa’is, Beirut, second edition, 1408 AH – 1988 AD.
20. Al-Mu‘jam Al-‘Arabi Al-Asasi, by a group of linguists, issued by the Arab Organization for Education, Culture and Science, Tunisia, 1989 AD.
21. Maqayis Al-Lughah, by Ahmad ibn Faris ibn Zakariya Al-Qazwini Al-Razi Abu Al-Husayn, verified by Abdul Salam Muhammad Harun, Dar Al-Fikr, 1399 AH – 1979 AD.

Specialized Legal Books, Research and Studies:

22. Commercial Arbitration (Alternative Means for Resolving Disputes in the Kingdom of Saudi Arabia), with an analytical study of judicial rulings, lecture by Dr. Saad Al-Shathri and Dr. Alaa Al-Din Abdul Ati, Dar Al-Kitab Al-Jami‘i, first edition, 1432 AH – 2011 AD.
 23. Al-Tahkim fi Nizam Al-Tahkim, by Sheikh Abdullah ibn Muhammad Al-Khinain, Dar Al-Hadara, Riyadh, first edition, 1441 AH – 2020 AD.
-

24. Annulment action of the arbitration award, by Amer Abdullah Al-Balti, a thesis submitted to complete the requirements for obtaining a Master's degree in Private Law, Minya University, Faculty of Law, Higher Studies Program, Master of Private Law, 2018.
25. Annulment action of the arbitration award in Algerian law, Dr. Belkacem Qasti and Dr. Aisha Musharfa, Journal of Law and Human Sciences, Faculty of Law and Political Science, University of Zian Ashour – Djelfa, Algeria, Volume 36, Issue 6, 2022.
26. Judicial oversight over arbitration in the Kingdom of Saudi Arabia, Dr. Abdullah bin Muhammad Al-Khanain, research submitted to obtain the doctoral degree in Comparative Judiciary, Institute of Judicial Administration, Imam Muhammad bin Saud Islamic University, Riyadh.
27. Introduction to the study of regulations, Dr. Adel Al-Ajlani, Dar Al-Nashr Al-Dawli, Riyadh, first edition, 1438 AH – 2018 AD.

Regulations and Laws:

28. Algerian Civil and Administrative Procedures Law, No. 08/09, dated February 25, 2008.
29. UNCITRAL Model Law on International Commercial Arbitration, Arabic version, issued by the United Nations Commission on International Trade Law, June 1985 – July 2006, United Nations Office in Vienna, official website:
<https://uncitral.un.org>
30. Jordanian Arbitration Law No. 31 of 2001, issued by the Law and Arbitration Center publications.
31. Egyptian Arbitration Law in Civil and Commercial Matters, issued by Law No. 27 of 1994, as amended, Cairo, publications of the Cairo Regional Center for International Commercial Arbitration.
32. UNCITRAL Arbitration Rules, Arabic version, issued by the United Nations Commission on International Trade Law, Vienna Office, April 2011:
<https://uncitral.un.org>
33. Arbitration Rules issued by the Saudi Center for Commercial Arbitration (SCCA), effective from 11 Shawwal 1444 AH corresponding to May 2023.
34. The Basic Law of Governance issued by Royal Order No. (A/90) dated 27/8/1412 AH.
35. Saudi Arbitration Law issued by Royal Decree No. (M/34) dated 24/5/1433 AH.
36. Saudi Law of Civil Procedure issued by Royal Decree No. (M/1) dated 22/1/1435 AH.

Judicial Rulings:

36. Judgment of the Commercial Court of Appeal in Riyadh region, Decision No. 437800864, dated 27/7/1439 AH, Commercial Case No. 439992, dated 27/7/1439 AH.
37. Judgment of the Commercial Court of Appeal in Riyadh region, Decision No. 4717, dated 25/8/1439 AH, Fifth Circuit, Case No. 4378 for the year 1443 AH.
38. Judgment of the Commercial Court of Appeal in Riyadh region, Decision No. 43309999, dated 27/7/1433 AH, Fifth Circuit, Case No. 43000864 for the year 1444 AH.
39. Judgment of the Commercial Court of Appeal in Riyadh region, Decision No. 4568, dated 30/8/1431 AH, Sixth Circuit, Case No. 4478 for the year 1431 AH.
40. Judgment of the Commercial Court of Appeal in the Eastern Region, Decision No. 43374151, dated 2/11/1442 AH, Third Commercial Circuit, Case No. 44743636 for the year 1444 AH.
41. Judgment of the Commercial Court of Appeal in Riyadh region, Decision No. 43378753, dated 27/7/1439 AH, Fifth Circuit, Case No. 43939279 for the year 1443 AH.
42. Judgment of the Commercial Court of Appeal in Al-Madinah Al-Munawwarah region, Decision No. 43787875, dated 21/11/2021 AD, Commercial Court in Al-Madinah Al-Munawwarah, Case No. 437142051 for the year 1443 AH.
43. Compilation of judicial rulings issued in annulment and enforcement cases of arbitration awards, compiled by: Dr. Falih Al-Zahrani.

Electronic Websites:

44. Official website of the Ministry of Justice journal:
<https://adlm.moj.gov.sa>
45. Saudi Center for Commercial Arbitration website:
<https://www.sadr.org>
46. Cairo Regional Center for International Commercial Arbitration website:
<https://crica.org>
47. Sharjah International Commercial Arbitration Center website:
<https://www.tahkeem.ae>
48. Board of Grievances (Diwan Al-Mazalim) official website:
<https://www.uqn.gov.sa>
49. Legal blog website:
www.elmodawanaeg.com
50. Official legal portal of the Ministry of Justice in Saudi Arabia:
<https://laws.moj.gov.sa>
51. Official website of the Bureau of Experts at the Council of Ministers:
<https://laws.boe.gov.sa>